



## **GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH**

### **Standard e-Tender Document (STD) (National) For Procurement of Works [One Stage Two Envelope Tendering Method]**

(For any value funded by GOB/ DPs)

**Central Procurement Technical Unit  
Implementation Monitoring and Evaluation Division  
Ministry of Planning**

# **Guidance Notes on the Use of The Standard Tender Document**

These guidance notes have been prepared by the CPTU to assist a Procuring Entity in the preparation of e-Tender Document, using the Standard e-Tender Document (STD), for the procurement of Works and Physical services . The STD are prepared in consistent with the Public Procurement Act 2006 and the Public Procurement Rule 2008 (PPR2008), issued to supplement the Public Procurement Act 2006 and Bangladesh e-Government Procurement (e-GP) Guidelines.

The use of STD (e-PW3) applies when a PE intends to select a Tenderer (a Contractor) for the Procurement of Works and physical services under Open Tendering Method (OTM) through e-GP system. The contract award is being determined on the basis of lowest evaluated responsive Tender and when a pre-qualification process has not taken place.

STD (e-PW3) is intended as a model for admeasurements contracts (unit prices or unit rates in a Bill of Quantities) and the main text refers to admeasurements Contracts.

PE addresses its specific needs through the information provided in the **Tender Data Sheet (TDS)** and the **Particular Conditions of Contract (PCC)** as well as in the detailed requirements of the procurement in the Bill of Quantities, General and Particular **Specifications** and/or the **Drawings**.

Guidance notes in brackets and italics are provided for both the PE and the Tenderer and as such the PE should carefully decide what notes need to remain and what other guidance notes might be required to assist Tenderer in preparing its Tender Submission; so as to minimise the inept Tendering Process.

STD (e-PW3) when properly completed will provide all the information that a Tenderer needs in order to prepare and submit a Tender. This should provide a sound basis on which the PE can fairly, transparently and efficiently carry out a Tender evaluation process on the Tenders submitted by the Tenderers.

The following briefly describes the Sections of STD (e-PW3) and how a PE should use these when preparing a particular e-TD.

## **Section 1. Instructions to Tenderer (ITT)**

This Section provides information on the e-lodgment, opening, and evaluation of Tenders and on the award of Contract. It specifies the instruction and procedure that govern the tendering process. This Section also contains e-GP system functions and the criteria to be used by the PE in order to determine the lowest evaluated responsive Tender and the qualifications of the Tenderer to perform the Contract

## **Section 2. Tender Data Sheet (TDS)**

This Section provides the information that is specific to each object of procurement and that supplements the information or requirements included in Section 1: Instructions to Tenderers. PE shall specify in the TDS only the information that the ITT instruct, be specified in the TDS.

## **Section 3. General Conditions of Contract (GCC)**

This Section provides the General Conditions of Contract that will apply to the Contract for which the e-TD is issued. The GCC clearly identifies the

provisions that may normally need to be specified for a particular tendering process and need to be addressed through the PCC.

#### **Section 4. Particular Conditions of Contract (PCC)**

This Section provides clauses specific to the particular Contract that modify or supplement Section 3: General Conditions of Contract. PE should include at the time of issuing the e-TD all information that the GCC indicate, shall be provided in the PCC.

#### **Section 5. Tender and Contract Forms**

This Section provides the standard format for the **Tender Submission Letter, (Form e-PW3-1)**, **Tenderer Information Form (e-PW3-2)** and **Tender Security (Form e-PW3-5)** to be submitted by the Tenderer.

This Section also contains the form of the **Notification of Award (Form e-PW3-6)** and the **Contract Agreement (Form e-PW3-7)** which, when completed, incorporates any corrections or modifications to the accepted Tender relating to amendments permitted by the **Instructions to Tenderers, the General Conditions of Contract (GCC) and the Particular Conditions of Contract (PCC)**.

The forms for **Bank Guarantee for Performance Security (Form e-PW3-8)**, **Bank Guarantee for Advance Payment (Form e-PW3-9)** and **Bank Guarantee for Refund of Retention Money (Form e-PW3-10)**, as and if applicable, are to be completed and furnished by the successful Tenderer, when required.

#### **Section 6. Bill of Quantities**

This Section provides the items and estimated quantities of Works to be performed and must be carefully prepared by a PE for each object of procurement.

#### **Section 7. General Specifications**

This Section provides the General Specifications that describe the Works and Associated Services to be procured.

#### **Section 8. Particular Specifications**

This Section provides further details as to precise requirements not included in the General Specifications, or which modify or clarify the General Specifications for the particular Works and Associated Services to be procured.

#### **Section 9. Drawings**

This Section contains any Drawings that supplement the General and Particular Specifications for the Works and Associated Services to be procured.

**Format for Invitation for Tender (IFT) attached at the back of this Document is for  
information only**

**e - T e n d e r   D o c u m e n t**

**FOR THE PROCUREMENT OF WORKS (NATIONAL)**

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## Section 1. Instructions to Tenderers

### A. General

1. Scope of Tender
- 1.1 PE named in the Tender Data Sheet (**TDS**) (hereinafter referred to as the "PE") wishes to issues these e- Tender Document (hereinafter referred to as the "e-TD") for the procurement of Works and physical services as specified in the **TDS** and as detailed in section 6: Bill of Quantities. The name of the Tender and the number and identification of its constituent lot(s) are stated in the **TDS**.
- 1.2 The successful Tenderer shall be required to execute the works and physical services as specified in the General Conditions of Contract
2. Interpretation
- 2.1 Throughout this e-TD:
- (a) "**communication**" means communication through e-GP System;
  - (b) "**e-GP**" means procurement by a PE using the electronic government procurement system developed by the Government of Bangladesh;
  - (c) "**day**" means calendar days unless otherwise specified as working days;;
  - (d) "**date and time**" means the date and time of e-GP System ([www.eprocure.gov.bd](http://www.eprocure.gov.bd)) hosted in Central Procurement Technical Unit (CPTU), Implementation Monitoring and Evaluation Division(IMED), Dhaka, Bangladesh;
  - (e) "**e-TD**" means the Document provided by a PE to a Tenderer as a basis for preparation of its e-Tender through the e-GP System;
  - (f) "**Person**" means and includes an individual, body of individuals, sole proprietorship, partnership, company, association or cooperative society registered with e-GP system and wishes to participate in e-Procurement proceedings;
  - (g) "**e-Tender**", depending on the context, means a Tender submitted through e-GP System by a Tenderer for execution of Works and physical services to a PE in response to an Invitation for e-Tender;
  - (h) "**Tenderer**" means a Person who submits an e-Tender;;
  - (i) if the context so requires, singular means plural and vice versa;
  - (j) "**e-Signature**" means a signature in electronic form attached to or logically associated with an electronic record, in the form of electronic symbol or a process attached to or logically associated with documents, and executed , adopted or agreed upon by a person with the intent to sign the documents;
3. Source of Funds
- 3.1 PE has been allocated public funds as indicated in the **TDS** and intends to apply a portion of the funds to eligible payments under

the Contract for which this e-TD is issued.

- 3.2 For the purpose of this provision, “public funds” means any monetary resources appropriated to Procuring Entities under Government budget, or loan, grants and credits placed at the disposal of Procuring Entities through the Government by the development partners or foreign states or organisations.
- 3.3 Payments by the Development Partner, if so indicated in the **TDS**, will be made only at the request of the Government and upon approval by the Development Partner or foreign state or Organisation in accordance with the applicable Loan / Credit / Grant Agreement, and will be subject in all respects to the terms and conditions of that Agreement.

4. Corrupt, Fraudulent, Collusive, Coercive or obstructive Practices
  - 4.1 The Government and the Development Partner require that PE, as well as Tenderers and Contractors (including their suppliers, sub-contractors, agents, personnel, consultants, and service providers) shall observe the highest standard of ethics during implementation of procurement proceedings and the execution of Contracts under public funds.
  - 4.2 For the purposes of ITT Sub Clause 4.3, the terms set forth below as follows:
    - (a) "**corrupt practice**" means offering, giving or promising to give, receiving, or soliciting either directly or indirectly, to any officer or employee of a PE or other public or private authority or individual, a gratuity in any form; employment or any other thing or service of value as an inducement with respect to an act or decision or method followed by a PE in connection with a Procurement proceeding or Contract execution;
    - (b) "**fraudulent practice**" means the misrepresentation or omission of facts in order to influence a decision to be taken in a Procurement proceeding or Contract execution;
    - (c) "**collusive practice**" means a scheme or arrangement between two (2) or more Persons, with or without the knowledge of the PE, that is designed to arbitrarily reduce the number of Tenders submitted or fix Tender prices at artificial, non-competitive levels, thereby denying a PE the benefits of competitive price arising from genuine and open competition;
    - (d) "**coercive practice**" means harming or threatening to harm, directly or indirectly, Persons or their property to influence a decision to be taken in the Procurement proceeding or the execution of a Contract; or
    - (e) "**obstructive practice**" means deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede an investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation.
  - 4.3 Should any corrupt, fraudulent, collusive, coercive or obstructive practice of any kind is determined by the PE or the Development Partner, this will be dealt with in accordance with the provisions of the Procurement Guidelines of the Development Partner as stated in the ITT sub-clause 3.3 in combination with ITT sub-clause 4.4 and the Procurement Laws.
  - 4.4 If corrupt, fraudulent, collusive, coercive or obstructive practices of any kind is determined against any Tenderer or Contractor (including its suppliers, sub-contractors, agents, personnel, consultants, and service providers) in competing for, or in executing, a contract under public fund
    - (a) PE and/or the Development Partner shall exclude the concerned Tenderer from further participation in the

- concerned procurement proceedings;
- (b) PE and/or the Development Partner shall reject any recommendation for award that had been proposed for that concerned Tenderer;
  - (c) PE and/or the Development Partner shall declare, at its discretion, the concerned Tenderer to be ineligible to participate in further Procurement proceedings, either indefinitely or for a specific period of time;
  - (d) Development Partner shall sanction the concerned Tenderer or individual, at any time, in accordance with prevailing Development Partner's sanctions procedures, including by publicly declaring such Tenderer or individual ineligible, either indefinitely or for a stated period of time: (i) to be awarded a Development Partner-financed contract; and (ii) to be a nominated sub-contractor, consultant, manufacturer or supplier, or service provider of an otherwise eligible firm being awarded a Development Partner-financed contract; and
  - (e) Development Partner shall cancel the portion of the loan allocated to a contract if it determines at any time that representatives of the PE or of a beneficiary of the loan engaged in corrupt, fraudulent, collusive, coercive or obstructive practices during the procurement or the execution of that Development Partner financed contract, without the PE having taken timely and appropriate action satisfactory to the Development Partner to remedy the situation
- 4.5 Tenderer shall be aware of the provisions on corruption, fraudulence, collusion, coercion and obstruction in of the Public Procurement Act, 2006, the Public Procurement Rules, 2008 and others as stated in GCC Clause 39 and 89.1(b)(vii).
- 4.6 In further pursuance of this policy, Tenderers, suppliers and contractors, and their sub-contractors, agents, personnel, consultants, service providers shall permit the Government and the Development Partner to inspect any accounts and records and other documents relating to the tender submission and contract performance, and to have them audited by auditors appointed by the Government and/or the Development Partner
5. Eligible Tenderers
- 5.1 This Invitation for Tenders is open to all potential Tenderers from all countries, except for any specified in the **TDS**
  - 5.2 Tenderer must be registered in the e-GP system under appropriate user category of procurement process in order to have appropriate access point and to get working dashboard with authorized functions in e-GP System.
  - 5.3 Tenderer may be a physical or juridical individual or body of individuals, or company, association or any combination of them in the form of a Joint Venture, Consortium or Association (JVCA) invited to take part in public procurement or seeking to be so invited or submitting a Tender in response to an Invitation for Tenders.
  - 5.4 Government-owned enterprises in Bangladesh shall be eligible

- only if they can establish that they (i) are legally and financially autonomous, (ii) operate under commercial law, and (iii) are not a dependent agency of the PE.
- 5.5 Tenderer shall have the legal capacity to enter into the Contract.
  - 5.6 Tenderer and all parties constituting the Tenderer shall not have a conflict of interest.
  - 5.7 Tenderer in its own name or its other names or also in the case of its Persons in different names, shall not be under a declaration of ineligibility for corrupt, fraudulent, collusive, coercive and obstructive practices as stated under ITT Sub Clause 4 or in relation to the Development Partner's Guidelines in projects financed by Development Partner.
  - 5.8 Tenderer are not restrained or barred from participating in public Procurement on grounds of poor performance in the past under any Contract.
  - 5.9 Tenderer shall not be insolvent, be in receivership, be bankrupt, be in the process of bankruptcy, be not temporarily barred from undertaking business and it shall not be the subject of legal proceedings for any of the foregoing.
  - 5.10 Tenderer shall have fulfilled its obligations to pay taxes and social security contributions under the provisions of laws and regulations of the country of its origin.
  - 5.11 Tenderer shall provide such evidence of their continued eligibility satisfactory to the PE, as the PE will reasonably request.
  - 5.12 These requirements for eligibility will extend, as applicable, to each JVCA partner and Subcontractor proposed by the Tenderer.
- 6. Eligible Materials, Equipment and Associated Services**
- 6.1 All materials, equipment and associated services to be supplied under the Contract are from eligible sources, unless their origin is from a country specified in the **TDS**.
  - 6.2 For the purposes of this Clause, "origin" means the place where the Materials and Equipments are mined, grown, cultivated, produced or manufactured or processed, or through manufacturing, processing, or assembly, another commercially recognized new product results that differs substantially in its basic characteristics from its components.
  - 6.3 The origin of materials and equipment and associated services is distinct from the nationality of Tenderer.
- 7. Site Visit**
- 7.1 Tenderer is advised to visit and examine the Site of Works and its surroundings and obtain for itself on its own responsibility all information that may be necessary for preparing the Tender and entering into a contract for construction of the Works. The costs of visiting the Site shall be at Tenderer's own expense.
- 8. Disclaimer**
- 8.1 Use of the e-GP System shall only be used for lawful purposes that do not infringe the rights of or restrict or inhibit the use of the system by any third party. Such restriction or inhibition includes, but is not limited to, conduct which is intended to mislead, or is defamatory, or which may harass, cause distress or inconvenience to any person and the transmission of obscene or offensive content

or interruption of the normal flow of content within the e-GP System

## B. e-Tender Document (e-TD)

9. e-Tender Document: General
  - 9.1 The Sections comprising the e-TD are listed below, and should be read in conjunction with any Addendum issued under ITT Clause 12.
    - Section 1 Instructions to Tenderers (ITT)
    - Section 2 Tender Data Sheet (TDS)
    - Section 3 General Conditions of Contract (GCC)
    - Section 4 Particular Conditions of Contract (PCC)
    - Section 5 Tender and Contract Forms
    - Section 6 Bill of Quantities (BOQ)
    - Section 7 General Specifications
    - Section 8 Particular Specifications
    - Section 9 Drawings
  - 9.2 Tenderer is expected to examine all instructions, forms, terms, and specifications in the e-TD as well as in addendum to e-TD, if any.
10. Clarification of e-TD
  - 10.1 Clarification request must be posted through e-GP dashboard. Clarification posted by fax / post / e-mail will not be entertained.
  - 10.2 A prospective Tenderer requiring any clarification of the e-TD shall be allowed to post clarification as stated under ITT Sub Clause 10.1 till the date and time as specified in the TDS, but not later than the date of Pre-Tender meeting as stated under ITT Clause 11, if held.
  - 10.3 PE shall respond within five (5) working days of receipt of any such request for clarification received under ITT Sub-Clause 10.2.
  - 10.4 The clarification posted by PE will be shared through e-GP System its response to all those who have purchased the e-TD, including a description of the enquiry but without identifying its source
  - 10.5 Should the PE deem it necessary to amend the e-TD as a result of a clarification, it shall do so following the procedure under ITT Clause 12.
11. Pre-Tender Meeting
  - 11.1 To clarify issues and to answer questions on any matter arising in the e-TD, the PE may, if stated in the **TDS**, hold a Pre-Tender Meeting.
  - 11.2 Pre-Tender Meeting will be held online on the date and time as specified in the **TDS**. Clarifications to the queries of Tenderer will be made online, and also responses will be shared through dashboard of Tenderers, who have purchased the e-TD.
  - 11.3 Minutes of the pre-Tender meeting, including the text of the questions raised and the responses given, together with any responses prepared after the meeting, will be uploaded on e-GP

System within 5 working days.

- 11.4 Any amendment to the e-TD listed in ITT Sub-Clause 9.1 that may become necessary as a result of the pre-Tender meeting shall be made by the PE exclusively through the issue of an Amendment as stated under ITT Clause 12 and not through the minutes of the pre-Tender meeting.
  - 11.5 Non-participation at the Pre-Tender meeting will not be a cause for disqualification of a Tenderer.
12. Addendum to e-TD
- 12.1 At any time prior to the deadline for submission of Tenders, the PE on its own initiative or in response to a clarification request posted on e-GP System from a Tenderer, having purchased the e-TD or as a result of a Pre-Tender meeting, may revise the e-TD by issuing an addendum.
  - 12.2 The addendum corresponding the e-Tender shall be posted in the e-GP System and shall become an integral part of the e-TD. Afterwards amendment notification through e-mail shall be sent to Tenderer who have purchased e-TD.
  - 12.3 To give a prospective Tenderer reasonable time in which to take an amendment into account in preparing its Tender, the PE may, at its discretion, extend the deadline for the submission of e-Tenders.
  - 12.4 If an addendum is issued when time remaining is less than one-third of the time allowed for the preparation of e-Tenders, PE shall extend the deadline by an appropriate number of days for the submission of e-Tenders, depending upon the nature of the Procurement requirement and the addendum. The minimum time for such extension shall not be less than three (3) working days.

## C. Qualification Criteria

13. General Criteria
- 13.1 Tenderer shall possess the necessary professional and technical qualifications and competence, financial resources, equipment and other physical facilities, managerial capability, specific experience, reputation, and the personnel which entails setting pass/fail criteria, which if not met by Tenderer, will result in rejection of its Tender.
  - 13.2 In addition to meeting the eligibility criteria, as stated in ITT Clause 5, Tenderer must satisfy the other criteria stated in ITT Clauses 14 to 19 inclusive
  - 13.3 To qualify for multiple number of contracts/lots in a package made up of this and other individual contracts/lots for which tenders are invited in the Invitation for Tenders, Tenderer shall demonstrate having resources sufficient to meet the aggregate of the qualifying criteria for the individual contracts. The requirement of general experience under ITT Clause 15.1 (a) and specific experience, unless otherwise of different nature, under ITT Clause 15.1(b) shall not be separately applicable for each individual lot

14. Litigation History	14.1 Litigation history shall comply with the requirement as specified in ITT Sub Clause 16.1(c).
15. Experience Criteria	<p>15.1 Tenderer shall have the following minimum level of construction experience to qualify for the performance of the Works under the Contract:</p> <ul style="list-style-type: none"> <li>(a) a minimum number of years of general experience in the construction of works as Prime Contractor or Subcontractor or Management Contractor as specified in the <b>TDS</b>; and</li> <li>(b) specific experience as a Prime Contractor or Subcontractor or Management Contractor in construction works of a nature, complexity and methods/construction technology similar to the proposed Works in at least a number of contract(s) and of a minimum value over the period, as specified in the <b>TDS</b>.</li> </ul>
16. Financial Criteria	<p>16.1 Tenderer shall have the following minimum level of financial capacity to qualify for the performance of the Works under the Contract.</p> <ul style="list-style-type: none"> <li>(a) the average annual <b>construction</b> turnover as specified in the <b>TDS</b> during the period specified in the <b>TDS</b>;</li> <li>(b) Availability of minimum liquid assets i.e. working capital or credit line(s) from any Scheduled Bank, net of other contractual commitments of the amount as specified in the <b>TDS</b></li> <li>(c) Satisfactory resolution of all claims, arbitrations or other litigation cases and shall not have serious negative impact on the financial capacity of Tenderer.</li> <li>(d) The Minimum Tender Capacity as specified in the TDS.</li> </ul>
17. Personnel Capacity	17.1 Tenderer shall have the minimum level of personnel capacity to qualify for the performance of the Works under the Contract consisting of a Construction Project Manager, Engineers, and other key staff with qualifications and experience as specified in the TDS;
18. Equipment Capacity	18.1 Tenderer shall own suitable equipment and other physical facilities or have proven access through contractual arrangement <b>to hire</b> or lease such equipment or facilities for the desired period, where necessary or have assured access through lease, hire, or other such method, of the essential equipment, in full working order, as specified in the <b>TDS</b> .
19. Joint Venture, Consortium or Association (JVCA)	<p>19.1 Tenderer may participate in the procurement proceedings forming a Joint Venture, Consortium or Associations (JVCA) by an agreement, executed case by case on a non judicial stamp of value as stated in <b>TDS</b> or alternately with the intent to enter into such an agreement supported by a Letter of Intent along with the proposed agreement duly signed by all partners of the intended JVCA and authenticated by a Notary Public.</p> <p>19.2 The figures for each of the partners of a JVCA shall be added together to determine the Tenderer's compliance with the</p>

- minimum qualifying criteria; however, for a JVCA to qualify, lead partner and its other partners must meet the criteria stated in the **TDS**. Failure to comply with these requirements will result in rejection of the JVCA Tender.
- 19.3 Each partner of the JVCA shall be jointly and severally liable for the execution of the Contract, all liabilities and ethical and legal obligations in accordance with the Contract terms.
  - 19.4 The JVCA shall nominate a Representative (partner-in-charge) who shall have the authority to conduct all business for and on behalf of any and all the partners of the JVCA during the tendering process and, in the event the JVCA is awarded the Contract, during contract execution including the receipt of payments for and on behalf of the JVCA.
  - 19.5 Each partner of the JVCA shall complete the JVCA Partner Information (**Form e-PW3-2**) for submission with the Tender.
20. Subcontractor(s)
- 20.1 A Tenderer may intend to subcontract an activity or part of the Works, in which case such elements and the proposed Subcontractor shall be clearly identified.
  - 20.2 The PE may require Tenderers to provide more information about their subcontracting arrangements. If any Subcontractor is found ineligible or unsuitable to carry out the subcontracted tasks, the PE may request the Tenderer to propose an acceptable substitute.
  - 20.3 The PE may also select nominated Subcontractor(s) to execute certain specific components of the Works and if so, those will be specified in the **TDS**.
  - 20.4 Subcontractors' as stated under ITT Sub Clause 20.1 experience and resources will not be taken into account in determining the Tenderer's compliance with the qualifying criteria.
  - 20.5 The successful Tenderer shall under no circumstances assign the Works or any part of it to a Subcontractor.
  - 20.6 Each Subcontractor shall complete the Subcontractor Information (**Form e- PW3-3**) for submission with the Tender.
- D. Tender Preparation**
- 21. Only one Tender
  - 21.1 Tenderer shall submit only one (1) Tender for each lot, either individually or as a JVCA.
  - 22. Cost of Tendering
  - 22.1 Tenderer shall bear all costs associated with the preparation and submission of its Tender, and the PE shall not be responsible or liable for those costs, regardless of the conduct or outcome of the Tendering process.
  - 23. Sale of e-TD
  - 23.1 e-TD can be accessed or downloaded in e-GP system by the Tenderer after paying the document fees, up to the day prior to the deadline for the submission of e-Tender through e-GP member bank's network and updated the payment transaction by

the bank in e-GP system

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| 24. Language of Tender                 | 24.1 | Tender shall be in English language. Correspondence and documents relating to the Tender shall be in the English language. Supporting documents and printed literature furnished by the Tenderer may be in another language provided they are accompanied by an accurate translation of the relevant passages into the English or Bangla language, in which case, for purposes of interpretation of the Tender, such translation shall govern.  |
|  | 24.2 | Tenderer shall bear all costs of translation to the governing language and all risks of the accuracy of such translation.   |
| 25. Contents of Tender                 | 25.1 | <p>The Tender prepared by the Tenderer shall comprise the following:</p> <ul style="list-style-type: none"><li>(a) the Tender Submission Letter (<b>Form e-PW3-1</b>) as furnished in Section 5: e-Tender Forms;</li><li>(b) Tenderer Information (<b>Form e-PW3-2</b>) as furnished in Section 5: e-Tender Forms;</li><li>(c) the priced Bill of Quantities for each lot in accordance with ITT Clauses 26 and 27;</li><li>(d) Tender Security as stated under ITT Clauses 34 and 35.</li><li>(e) Written confirmation authorizing the signatory of the Tenderer including National ID to submit the e-Tender and shall be uploaded and mapped in the tender along with e-Tender Submission Letter (<b>Form e-PW3-1</b>);</li><li>(f) Valid Trade license to be mapped from e-GP Common document library of the Tenderer ;</li><li>(g) Documentary evidence of Tax Identification Number (TIN) and Value Added Tax (VAT) as a proof of taxation obligations as stated under ITT Sub Clause 5.10 to be mapped from e-GP Common document library of the Tenderer;</li><li>(h) Technical Proposal describing work plan &amp; method, personnel, equipment and schedules as stated under ITT Clause 30;</li><li>(i) documentary evidence as stated under ITT Clause 28 and 31 establishing the Tenderer's eligibility and the minimum qualifications of the Tenderer required to be met for due performance of the Works and physical services under the Contract;</li><li>(j) Documents establishing legal and financial autonomy and compliance with commercial law, as stated under ITT Sub-clause 5.4 in case of government owned entity; and</li><li>(k) any other document as specified in the <b>TDS</b>.</li></ul> |
| 26. Tender Prices and Price Adjustment | 26.1 | Tenderer shall fill in unit prices for all items of the Works in figures as described in the BOQ. The Total price will be generated automatically by the e-GP system and computation will be done   |

- from these BOQ.
- 26.2 All applicable taxes, custom duties, VAT and other levies payable by the Contractor under the Contract, or for any other causes, as of the date twenty-eight (28) days prior to the deadline for submission of Tenders, shall be included in the unit prices.
  - 26.3 Unless otherwise provided in the **TDS** and the Contract, the price of a Contract shall be fixed in which case the unit prices may not be modified in response to changes in economic or commercial conditions.
  - 26.4 If so indicated under ITT Sub Clause 26.3, Tenders are being invited with a provision for price adjustments. The unit prices quoted by the Tenderer are subject to adjustment during the performance of the Contract in accordance with the provisions of GCC Clause 71 and, in such case the PE shall provide the indexes and weightings or coefficients in **Appendix to the Tender** for the price adjustment formulae specified in the PCC.
  - 26.5 PE may require the Tenderer to justify its proposed indexes, if any of those as stated under ITT Sub Clause 26.4, are instructed to be quoted by the Tenderer in **Appendix to the Tender**.
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| <p>27. Tender Currency</p> <p>28. Documents Establishing Eligibility of the Tenderer</p> <p>29. Documents Establishing the Eligibility and Conformity of Materials, Equipment and Services</p> | <p>27.1 All prices shall be quoted in Bangladesh Taka.</p> <p>28.1 Tenderer, if applying as a sole Tenderer, shall submit documentary evidence to establish its eligibility as stated under ITT Clause 5 and, in particular, it shall:</p> <ul style="list-style-type: none"> <li>(a) complete the eligibility declarations in the Tender Submission Letter (<b>Form e-PW3-1</b>);</li> <li>(b) complete the Tenderer Information (<b>Form e-PW3-2</b>);</li> <li>(c) provide completed Subcontractor Information (<b>Form e-PW3-3</b>), if it intends to engage any Subcontractor(s).</li> </ul> <p>28.2 A Tenderer, if applying as a partner of an existing or intended JVCA shall submit documentary evidence to establish its eligibility as stated under ITT Clause 5 and, in particular, in addition to as specified in ITT Sub Clause 28.1, it shall:</p> <ul style="list-style-type: none"> <li>(a) provide for each JVCA partner, completed JVCA Partner Information (<b>Form e-PW3-2</b>);</li> <li>(b) provide the JVCA agreement or Letter of Intent along with the proposed agreement of the intended JVCA as stated in ITT Sub Clause 19.1.</li> </ul> <p>29.1 Tenderer shall submit documentary evidence to establish the origin of all Materials, Equipment and services to be supplied under the Contract as stated under ITT Clause 6.</p> <p>29.2 To establish the conformity of the Materials, Equipment and services to be supplied under the Contract, the Tenderer shall furnish, as part of its Tender, the documentary evidence (which may be in the form of literature, specifications and brochures, drawings or data) that these conform to the technical</p> |
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		specifications and standards specified in <b>Section 7, General Specifications</b> and <b>Section 8, Particular Specifications</b> .
30. Documents Establishing Technical Proposal	30.1	Tenderer shall furnish a Technical Proposal including a statement of work methods, equipment, personnel, schedule and any other information as stipulated in <b>TDS</b> , in sufficient detail to demonstrate the adequacy of the Tenderer's proposal to meet the work requirements and the completion time.
31. Documents Establishing the Tenderer's Qualification	31.1	<p>Tenderers shall complete and submit the Tenderer Information (<b>Form e-PW3-2</b>) and shall include documentary evidence, as applicable to satisfy the following:</p> <ul style="list-style-type: none"> <li>(a) general experience of construction works as stated under ITT Sub Clause 15.1(a);</li> <li>(b) specific experience in construction works of similar nature and size as stated under ITT Sub Clauses 15.1(b)</li> <li>(c) average annual <b>construction</b> turnover for a period as stated under ITT Sub Clause 16.1(a);</li> <li>(d) adequacy of minimum liquid assets i.e. working capital or credit line(s) as stated under ITT Sub Clause 16.1(b)</li> <li>(e) technical and administrative personnel along with their qualification and experience proposed for the Contract as stated under ITT Clause 17;</li> <li>(f) major items of construction equipment proposed to carry out the Contract as stated under ITT Clause 18;</li> <li>(g) authority to seek references from the Tenderer's bankers or any other sources.</li> <li>(h) information regarding any litigation, current or during the last five years, in which the Tenderer is involved, the parties concerned, and disputed amount as stated under Sub Clause 16.1(c);</li> </ul>
	31.2	PE shall disqualify a Tenderer who submits a document containing false information for purposes of qualification or mislead or makes false representations in proof of qualification requirements. A PE may declare such a Tenderer ineligible, either indefinitely or for a stated period of time, from participation in future procurement proceedings
	31.3	PE may disqualify a Tenderer if it finds at any time that the information submitted concerning the qualifications of the Tenderer was materially inaccurate or materially incomplete. Also PE may disqualify a Tenderer who has record of poor performance such as abandoning the works, not properly completing the contract, inordinate delays, litigation history or financial failures.
32. Validity Period of Tender	32.1	Tenders shall remain valid for the period specified in the <b>TDS</b> after the date of Tender submission deadline, as stated under ITT Sub Clause 40.1.
33. Extension of Tender Validity and	33.1	In exceptional circumstances, prior to the expiration of the Tender validity period, the PE may solicit, <b>not later than ten (10) days</b>

Tender Security	before the expiry date of the Tender validity, compulsorily all the Tenderers' consent to an extension of the period of validity of their Tenders.
33.2	The request for extension of Tender validity period shall state the new date of the validity of the Tender
33.3	The request from the PE and the responses from the Tenderers will be made through e-GP System
33.4	Tenderers consenting to the request made by the PE under ITT Sub-Clause 33.1 shall also correspondingly extend the validity of its Tender Security for twenty-eight (28) days beyond the new date for the expiry of Tender validity. Extension of validity of Tender security will be done by the bank registered with e-GP System upon such request to the bank from the Tenderer.
33.5	Tenderers consenting to the request under ITT Sub- Clause 33.1 shall not be required or permitted to modify its Tender in any circumstances.
33.6	If the Tenderers are not consenting to the request made by the PE under ITT Sub-Clause 33.1, its Tender will not be considered for subsequent evaluation.
34. e-Tender Security	<p>34.1 e-Tender security will be prepared by the bank registered with e-GP system in favour of the PE upon such request from the Tenderer. e-Tender security shall be kept in custody of the bank and transaction information will be updated in the e-GP system.</p> <p>34.2 Amount of the Tender security may be determined on the basis of different percentages for each lot, but the amount is fixed as specified in <b>TDS</b>. If the Tender is a Joint Venture, the Tenderer shall furnish as part of its Tender, in favour of the PE or as otherwise directed on account of the title of the existing or intended JVCA or any of the partners of that JVCA or in the names of all future partners as named in the Letter of Intent of the JVCA, in the amount as stated under ITT Sub Clause 34.2.</p>
35. Form of Tender Security	<p>35.1 The Tender Security shall:</p> <ul style="list-style-type: none"> <li>(a) at the Tenderer's option, be either; <ul style="list-style-type: none"> <li>i. in the form of a bank draft or pay order, or</li> <li>ii. in the form of an irrevocable bank guarantee issued by a scheduled Bank of Bangladesh, in the format (<b>Form e-PW3-5</b>) furnished in <b>Section 5: Tender and Contract Forms</b>;</li> </ul> </li> <li>(b) be payable promptly upon demand by the PE in the case of the conditions listed in ITT Sub Clause 37.1 being invoked; and</li> <li>(c) remain valid for at least twenty eight (28) days beyond the expiry date of the Tender Validity in order to make a claim in due course against a Tenderer in the circumstances as stated under ITT Sub Clause 37.1.</li> </ul>
36. Return of Tender Security	<p>36.1 No Tender Security shall be returned to the Tenderers before contract signing.</p> <p>36.2 Unsuccessful Tenderer's e-Tender security will be discharged or</p>

- released as soon as possible but within 28 days of the end of the e-Tender validity period specified in ITT Sub-clause 32.1.
- 36.3 e-Tender security of the Tenderers not consenting to the request under ITT Sub-clause 33.1 in regard to extension of its e-Tender validity shall be discharged or released forthwith.
- 36.4 The bank will release the e-Tender security only upon a request from the PE.
37. Forfeiture of Tender Security
- 37.1 The Tender Security may be forfeited, if a Tenderer:
- (a) refuses to accept a Notification of Award as stated under ITT Sub Clause 57.1; or
  - (b) fails to furnish Performance Security as stated under ITT Sub Clause 58.1 and 58.3; or
  - (c) refuses to sign the Contract as stated under ITT Sub Clause 62.1; or
- 37.2 In case e-Tender security is required to be forfeited, PE will instruct the concerned registered bank/branch with the e-GP system and bank/branch in turn will debit the amount and credit it in favour of the PE's bank account.
38. Online Tender Preparation
- 38.1 Prior to submission of a e-Tender, the Tenderer must ensure that all electronic records and files making up the Tender are completely virus free and also ensure integrity, completeness and authenticity of the tender.
- E. Tender e-Submission**
39. e- submission
- 39.1 Tenderer shall submit the e-Tender through e-GP system and must be received in completeness prior to the deadline for submission. Tenderer acknowledge the receipt of the tender through the e-GP system
- 39.2 The e-Tender submitted through e-GP system by the Tenderer is deemed for all purposes to be the true and legal version, duly authorized and duly executed by the Tenderer and intended to have binding legal effect. e-Signature / Digital Signature will identify and authenticate the Tenderer.
- 39.3 Tender submitted online will be stored in encrypted format in the e-Tender box
- 39.4 Authorization letter from the firm / company shall be attached with Tender Submission Letter (**Form e-PW3-1**) to submit the Tender.
- 39.5 Submitted Tender containing files those are corrupt or containing virus or are unreadable for any reason, will not be considered.
40. Deadline for submission of e-Tender
- 40.1 e-Tenders shall be submitted to the e-GP System no later than the date and time specified in the **TDS**.
- 40.2 Submission of large electronic file may take time and as such sufficient time must be allowed to fully transmit all the files prior to the closing time.
- 40.3 PE may, at its discretion on justifiably acceptable grounds duly recorded, extend the deadline for submission of Tender as stated

- under ITT Sub Clause 36.1, in which case all rights and obligations of the PE and Tenderers previously subject to the deadline will thereafter be subject to the new deadline as extended.
- 40.4 e-Tenders submitted shall not be allowed to be withdrawn after the deadline for submission.
41. e-Tender Substitution / Modification / Withdrawal
- 41.1 Tenderer shall be allowed to substitute / modify / withdraw its submitted tender before tender submission deadline.

## F. e-Tender Opening and e-Evaluation

42. e-Tender Opening
- 42.1 e-Tender opening process will be done by decrypt tender functionality as tenders will be stored in time stamped electronic tender box with encryption
- 42.2 Tender Opening Committee (TOC) shall open the tender within one (1) hour after tender submission deadline
- 42.3 Tender Opening Reports (TORs) will be generated by the e-GP system. TOR will be available after tender opening in the dashboard of the Tenderer.
43. Evaluation of e-Tenders
- 43.1 e-Tenders shall be examined and evaluated only on the basis of the criteria specified in the e-TD.
- 43.2 Tender Evaluation Committee (TEC) shall examine, evaluate and compare Tenders that are responsive to the mandatory requirements of e-TD in order to identify the successful Tenderer.
44. Evaluation Process
- 44.1 e-GP System will automatically generate the Tender Evaluation Reports (TERs) to assist the TEC. TEC should review the TERs, confirms the compliance and complete the TERs based on the criteria mentioned in e-TD
- 44.2 TEC may consider a Tender as responsive in the Evaluation, only if it is submitted in compliance with the mandatory requirements set out in the e-TD. The evaluation process should begin immediately after tender opening following four steps:
- (a) Preliminary Examination;
  - (b) Technical Examinations and Responsiveness;
  - (c) Financial evaluation and price comparison;
  - (d) Post-qualification of the Tender.
45. Preliminary Examination
- 45.1 PE shall examine the Tenders to confirm that all documentation requested in ITT Clause 25 has been provided, to determine the completeness of each document submitted .
- 45.2 PE shall confirm that the following documents and information have been provided in the tender. If any of these documents or information is missing, the Tender shall be rejected.
- (a) Tender Submission Letter;
  - (b) Priced Bill of Quantities;

		(c) Written confirmation of authorization to submit the Tender; and (d) Tender Security.
46. Technical Responsiveness and Technical Evaluation	46.1	If a Tender is not responsive to the mandatory requirements set out in the e-TD, shall not subsequently be made responsive by the Tenderer by correction of the material deviation, reservation, or omission.
	46.2	A responsive Tender is one that conforms in all respects to the requirements of the e-TD without material deviation, reservation, or omission. A material deviation, reservation, or omission is one that:
	(a)	affects in any substantial way the scope, quality, or performance of the Works specified in the Contract and Tenderer's qualifications mentioned in the Tender Document; or
	(b)	limits in any substantial way, or is inconsistent with the e-TD, the PE's rights or the Tenderer's obligations under the Contract; or
	(c)	if rectified would unfairly affect the competitive position of other Tenderers presenting substantially responsive tenders.
	46.3	There shall be no requirement as to the minimum number of responsive tenders.
	46.4	There shall be no automatic exclusion of tenders which are above or below the official estimate.
	46.5	TEC shall evaluate the aspects of the Tender submitted in accordance with ITT Clauses 29, 30, 31 and to confirm that all requirements specified in Section 7: General Specifications and Section 8: Particular Specifications of the e-TD have been met without any material deviation or reservation.
	46.6	Provided that a Tender is responsive, TEC may request that the Tenderer submit the necessary information or documentation through e-GP System within a reasonable period of time, to rectify nonmaterial nonconformities or omissions in the Tender related to documentation requirements. Such omission shall not be related to any aspect of the prices of the tender quoted in the Priced BOQ. Failure of the Tenderer to comply with the request may result in the rejection of its tender.
	46.7	TEC may regard a Tender as responsive even if it contains;
	(a)	minor or insignificant deviations which do not meaningfully alter or depart from the technical specifications, characteristics and commercial terms and, conditions or other mandatory requirements set out in the e-TD; or
	(b)	errors or oversights, that if corrected, would not alter the key aspects of the Tender.
47. Clarification on Tender	47.1	TEC may ask Tenderers for clarifications of their Tenders through e-GP System, in order to facilitate the examination and evaluation

- of the Tenders.
- 47.2 Any request for clarifications by the TEC shall not be directed towards making an apparently non-responsive Tender responsive and reciprocally the response from the concerned Tenderer shall not be articulated towards any addition, alteration or modification to its Tender.
- 47.3 If a Tenderer does not provide clarifications of its Tender by the date and time, its Tender shall not be considered in the evaluation.
- 47.4 Requests for clarification shall be through e-GP system and shall be sent only by the Chairperson of the TEC.
48. Restrictions on Disclosure of Information
- 48.1 Following the opening of Tenders until issuance of Notification of Award no Tenderer shall, unless requested to provide clarification to its Tender or unless necessary for submission of a complaint, communicate with the concerned PE
- 48.2 Tenderers shall not seek to influence in anyway, the examination and evaluation of the Tenders
- 48.3 Any effort by a Tenderer to influence a PE in its decision concerning the evaluation of Tenders, Contract awards may result in the rejection of its Tender as well as further action in accordance with Section 64 (5) of the Public Procurement Act 2006
- 48.4 All clarification requests shall remind Tenderers of the need for confidentiality and that any breach of confidentiality on the part of the Tenderer may result in their Tender being disqualified.
49. Financial Evaluation
- 49.1 TEC shall evaluate each Tender that has been determined, up to this stage of the evaluation, to be responsive to the requirements set out in the e-TD.
- 49.2 To evaluate a Tender, the TEC shall consider the Tender price, excluding Provisional Sums and the provision, if any, for contingencies in the priced Bill of Quantities, but including Daywork items.
- 49.3 Variations, deviations and other factors which are in excess of the requirements of the e-TD or otherwise result in unsolicited benefits for the PE will not be taken into account in e-Tender evaluation.
- 49.4 The estimated effect of any price adjustment provisions under GCC Clause 71, applied over the period of execution of the Contract, will not be taken into account in e-Tender evaluation.
- 49.5 If so indicated in the ITT Sub Clause 1.1 the PE may award one or multiple lots to one Tenderer following the methodology specified in ITT Sub Clause 49.6.

- 49.6 To determine the lowest-evaluated lot or combination of lots, the TEC will take into account the resources sufficient to meet the qualifying criteria for the individual lot or aggregate of those multiple lots.
- 49.7 TEC may recommend to increase the amount of the Performance Security above the amounts as stated under ITT Sub Clause 58.1 but not exceeding twenty five (25) percent of the Contract price, if in the opinion of TEC, it is found that the Tender is significantly below the updated official estimated or unbalanced as a result of front loading.
50. Price Comparison
- 50.1 TEC will compare all responsive Tenders to determine the lowest-evaluated Tender, in accordance with ITT Clause 56.
  - 50.2 In the extremely unlikely event that there is a tie for the lowest evaluated price, the Tenderer with the superior past performance with the PE shall be selected, whereby factors such as delivery period, quality of Works delivered, complaints history and performance indicators could be taken into consideration.
  - 50.3 In the event that there is a tie for the lowest price and none of the Tenderers has the record of past performance with the PE as stated under ITT Sub Clause 50.2, then the Tenderer shall be selected, subject to firm confirmation through the Post-qualification process, after consideration as to whether the Tenderer has demonstrated in its Tender superior past performance with the other Procuring Entities or a more efficient work plan and work methodology.
  - 50.4 The successful Tenderer as stated under ITT Sub Clauses 50.1, 50.2 and 50.3 shall not be selected through lottery under any circumstances.
51. Negotiations
- 51.1 No negotiations shall be held during the Tender evaluation or award with the lowest or any other Tenderer.
  - 51.2 TEC may, however, negotiate with the lowest evaluated Tenderer with the objective to reduce the Contract price by reducing the scope of works or a reallocation of risks and responsibilities, only when it is found that the lowest evaluated Tender is significantly higher than the official estimate; the reasons for such higher price being duly analyzed.
  - 51.3 If the TEC decides to negotiate for reducing the scope of the requirements under ITT Sub Clause 51.2, it will be required to guarantee that the lowest Tenderer remains the lowest Tenderer even after the scope of work has been revised and shall further be ensured that the objective of the Procurement will not be seriously affected through this reduction.
  - 51.4 In the event that the TEC decides because of a high Tender price to reduce the scope of the requirements to meet the available budget, the Tenderer is not obliged to accept the award and shall not be penalised in any way for rejecting the proposed award.

52. Post-Qualification	52.1 The determination on Post-Qualification shall be based upon an examination of the documentary evidence of the Tenderer's qualifications submitted by the Tenderer, pursuant to ITT Clause 31, clarifications in accordance with ITT Clause 47 and the qualification criteria indicated in ITT Clauses 13 to 19. Factors not included therein shall not be used in the evaluation of the Tenderer's qualification.
	52.2 An affirmative determination shall be a prerequisite for award of the Contract to the Tenderer. A negative determination shall result in rejection of the tenderer's tender, in which event the PE shall proceed to the next lowest evaluated tender to make a similar determination of that Tenderer's capabilities to perform satisfactorily
	52.3 TEC may verify information contained in the Tender by visiting the premises of the Tenderer as a part of the post qualification process, if practical and appropriate.
53. PE's Right to Accept any or to Reject Any or All Tenders	53.1 PE reserves the right to accept any Tender, to annul the Tender proceedings, or to reject any or all Tenders at any time prior to contract award, without thereby incurring any liability to Tenderers, or any obligations to inform the Tenderers of the grounds for the PE's action.
54. Rejection of All e-Tenders	<p>54.1 PE may, in the circumstances as stated under ITT Sub-Clause 54.2 reject all Tenders following recommendations from the Evaluation Committee only after the approval of such recommendations by the Head of the PE.</p> <p>54.2 All Tenders can be rejected, if -</p> <ul style="list-style-type: none"> <li>(a) the price of the lowest evaluated Tender exceeds the official estimate, provided the estimate is realistic, subject to ITT Sub Clause 51.2 ; or</li> <li>(b) there is evidence of lack of effective competition; such as non-participation by a number of potential Tenderers; or</li> <li>(c) the Tenderers are unable to propose completion of the contract within the stipulated time in its Tender, though the stipulated time is reasonable and realistic; or</li> <li>(d) all Tenders are non-responsive; or</li> <li>(e) evidence of professional misconduct, affecting seriously the Procurement process, is established pursuant to Rule 127 of the Public Procurement Rules, 2008.</li> </ul> <p>54.3 Notwithstanding anything contained in ITT SubClause54.2 Tenders may not be rejected if the lowest evaluated price is in conformity with the market price.</p> <p>54.4 PE may, on justifiable grounds, annul the Procurement proceedings prior to the deadline for the submission of Tenders.</p>
55. Informing Reasons for Rejection	55.1 Notice of the rejection, will be given promptly within seven (7) working days of decision taken by the PE to all Tenderers and, the PE will, upon receipt of a request through e-GP System, communicate to any Tenderer the reason(s) for its rejection but is not required to justify those reason(s).

## G. Contract Award

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| 56. Award Criteria   | 56.1 PE shall award the Contract to the Tenderer whose Tender is responsive to all the requirements of the e-TD and that has been determined to be the lowest evaluated Tender, provided further that the Tenderer is determined to be Post-qualified in accordance with ITT Clause 52.  |
|  | 56.2 A Tenderer will not be required, as a condition for award, to undertake responsibilities not stipulated in the e-TD, to change its price, or otherwise to modify its Tender.  |
| 57. Notification of Award                                      | 57.1 Prior to the expiry of the Tender Validity period and within seven (7) working days of receipt of the approval of the award by the Approving Authority, the PE shall issue the Notification of Award (NOA) to the successful Tenderer through e-GP System.  |
|  | 57.2 The NOA, attaching the contract as per the sample ( <b>Form e-PW3-7</b> ) to be signed, shall state : <ul style="list-style-type: none"><li>(a) the acceptance of the Tender by the PE;</li><li>(b) the price at which the contract is awarded;</li><li>(c) the amount of the Performance Security and its format;</li><li>(d) the date and time within which the Performance Security shall be submitted; and</li><li>(e) the date and time within which the Contract shall be signed.</li></ul> |
|  | 57.3 NOA shall be accepted through e-GP System by the successful Tenderer within seven (7) working days from the date of issuance of NOA.  |
|  | 57.4 Until a formal contract is signed, the NOA will constitute a Contract, which shall become binding upon the furnishing of a Performance Security and the signing of the Contract by both parties.  |
| 58. Performance Security                                       | 58.1 Performance Security shall be furnished by the successful Tenderer in the amount as specified in the <b>TDS</b> .   |
|  | 58.2 Performance security will be issued by the bank registered with e-GP System on the request of the successful Tenderer. Bank shall immediately update the payment transaction information in the e-GP System.  |
|  | 58.3 PE shall increase the amount of the Performance Security above the amounts as stated under ITT Sub Clause 49.7.   |
|  | 58.4 Upon instruction from the PE, the Performance Security will be credited in the PE's bank account as compensation for any loss resulting from the contractor's failure to complete its obligations under the Contract  |
| 59. Form and Time Limit for Furnishing of Performance Security | 59.1 The Performance Security shall be in the form of a Bank Draft, Pay Order or an irrevocable Bank Guarantee in the format ( <b>Form e-PW3-8</b> ) as stated under ITT Clause 58, issued by any bank registered with the e-GP System.  |
|  | 59.2 Within fourteen (14) days from the date of acceptance of the NOA  |

		but not later than the date specified therein, the successful Tenderer shall furnish the Performance Security for the due performance of the Contract in the amount as stated under ITT Sub Clauses 58.1 or 58.3.
60. Validity of Performance Security	60.1	The Performance Security shall be required to be valid until a date twenty eight (28) days beyond the Intended Completion Date as specified in e-TD.
61. Contract Signing	61.1	At the same time as the PE issues the NOA, the PE shall send the draft Contract Agreement and all documents forming the Contract to the successful Tenderer.
	61.2	Within twenty-eight (28) days of the issuance of NOA, the successful Tenderer and the PE shall sign the contract.
	61.3	Failure of the successful Tenderer to submit the Performance Security, pursuant to ITT Sub-Clause 58.1, 58.3 or sign the Contract, pursuant to ITT Sub-Clause 62.2, shall constitute sufficient grounds for the annulment of the award and forfeiture of the Tender Security. In that event the PE may award the Contract to the next lowest evaluated Tenderer, whose Tender is responsive and is determined by the TEC to be qualified to perform the Contract satisfactorily.
62. Publication of Notification of Award of Contract	62.1	NOA shall be published in the e-GP system.
63. Debriefing of Tenderers	63.1	The Tenderer shall be debriefed through e-GP system by PE upon request without disclosing information about any other Tenderer.
	63.2	In the case of debriefing, confidentiality of the evaluation process shall be maintained.
64. Right to Complain	64.1	Tenderer has the right to complain in accordance with the Public Procurement Act 2006 and the Public Procurement Rules, 2008.

## Section 2. Tender Data Sheet

*Instructions for completing Tender Data Sheet are provided in italics in parenthesis for the relevant ITT clauses*

ITT Clause	Amendments of, and Supplements to, Clauses in the Instructions to Tenderers
<b>A. General</b>	
ITT 1.1	<p>The PE is <i>[state name of PE]</i></p> <p>The Name of the Tender is:</p> <p>Brief Description of the Works:</p> <p>Tender Ref:</p> <p>Lot No(s):</p> <p><i>[if there is more than one(1) lot, individual lots are to be identified in conformity with Section 6: Bill of Quantities]</i></p>
ITT 3.1	<p>The source of public funds is</p> <p><i>[state source, GoB or other source of funds].</i></p>
ITT 3.3	<p>The name of the Development Partner is</p> <p><i>[state name of Development Partner]</i></p>
ITT 5.1	<p>Tenderers from the following countries are not eligible</p> <p><i>[ state countries, if any ]</i></p>
ITT 6.1	<p>Materials, Equipments and associated services from the following countries are not eligible:</p> <p><i>[state countries, if any]</i></p>

<b>B. e-Tender Document</b>	
<b>ITT 10.2</b>	Allowed to post clarification till [Date and Time]
<b>ITT 11.1</b>	A Pre-Tender meeting shall not be held or A Pre- Tender meeting shall be held through e-GP System  <i>[delete whichever is not applicable]</i>
<b>ITT 11.2</b>	Pre- Tender meeting [Date & Time]
<b>C. Qualification Criteria</b>	
<b>ITT 15.1(a)</b>	The minimum number of years of general experience of the Tenderer in the construction works as Prime Contractor or Subcontractor or Management Contractor shall be <i>[state number]</i> years.  <i>[a minimum of three (3) years would be deemed reasonable; years counting backward from the date of publication of IFT in the newspaper]</i>
<b>ITT 15.1(b)</b>	The minimum specific experience as a Prime Contractor or Subcontractor or Management Contractor in construction works of at least <i>[state number]</i> contract(s) of similar nature, complexity and methods/construction technology successfully completed within the last <i>[state number]</i> years, each with a value of at least Tk. <i>[state amount]</i> .  <i>[the minimum number of contracts will depend upon the size and type of construction work, and the PE should make its own judgement based upon its experience in the sector and construction industry. For example, for large works, it could be one (1) contract of similar nature during the last three (3) years or five (5) years or ten (10) years (whichever appropriate); years counting backward from the date of publication of IFT in the newspaper]</i>  <i>[for Tenders where the package contains more than one (1) lot, this qualification requirements, only when applicable, shall be mentioned separately for each lot in the package]</i>  <i>[the minimum value of the similar works is recommended to be between 50 and 75 percent of the estimated cost of the proposed work]</i>

<b>ITT 16.1(a)</b>	<p>The required average annual <b>construction</b> turnover shall be greater than Tk [insert amount] over the last [state number] years.</p> <p><i>[the required average annual <b>construction</b> turn over is recommended to be about twice the estimated annual cash flow for the Contract; however the multiplier may vary from 1.0 to 2.0, the larger the Contract size the lesser the multiplier should be. The period may be best three (3) years in the last five (5) years or best five (5) years in the last ten (10) years (as appropriate) ; years counting backward from the date of publication of IFT in the newspaper]</i></p> <p><b>Example:</b></p> <p>Estimated Contract Value: Tk 24 Cr.  Contract period: 18 months  Estimated Annual Cash Flow: Tk 16 Cr.  Required average annual <b>construction</b> turn over: Tk 24 Cr., using a multiplier of 1.5.</p> <p><b>[for Tenders where the package contains more than one (1) lot, this qualification requirements shall be mentioned separately for each lot in the package]</b></p>
<b>ITT 16.1(b)</b>	<p>The minimum amount of liquid assets or working capital or credit facilities of the Tenderer shall be Tk [state amount]</p> <p><i>[usually the required liquid asset is the equivalent of 2-6 months payment flow at the average construction rate (straight line distribution), accessible or available after taking into account the financial requirements of existing commitments. The actual period will depend on the speed with which the PE will pay the Contractor's monthly certificate, allowing time to prepare an invoice, for the Project Manager's time to certify it, and at least one month contingency for preparing the cheque and making actual payment.]</i></p> <p><b>Example:</b></p> <p>Contract Value: Tk 24 Cr.  Contract period: 18 months  Assuming work time: 1 month  Invoice period: 0.5 month  Certification Time: 0.5 month  Contingency Time: 1 month</p> <p><i>Therefore, the minimum required liquid asset will be Tk 4 Cr., i.e. 3 months cash flow based on the above assumptions.]</i></p> <p><b>[for Tenders where the package contains more than one (1) lot, this qualification requirements shall be mentioned separately for each lot in the package]</b></p>

<b>ITT 16.1(d)</b>	<p>The minimum capacity shall be:[70%-80% of the official estimated cost]  The following formulae shall be used to calculate the Tender Capacity  Assessed Tender Capacity = (A*N*1.5-B)</p> <p>Where</p> <p>A=Maximum value of Works performed in any one year during last five years  N= Completion time of the proposed work in years  B= Value of Existing commitments and works to be completed during the next N Years</p> <p>Note 1: In case the value of N is less than 12 (twelve) months the value of N shall be considered as 01 (one)</p> <p>Note 2: In case of JV tender capacity requirement for leading partner shall be minimum 40% and for other partners shall be minimum 25%.</p>																																
<b>ITT 17.1(a),</b>	<p>A Construction Project Manager, Engineer, and other key staff shall have the following qualifications and experience:</p> <table border="1" data-bbox="355 889 1418 1474"> <thead> <tr> <th data-bbox="363 899 425 1079">No</th> <th data-bbox="425 899 736 1079">Position</th> <th data-bbox="736 899 1013 1079">Total Works Experience (years)</th> <th data-bbox="1013 899 1410 1079">In Similar Works Experience (years)</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td><td> </td></tr> </tbody> </table> <p><i>[ qualification of an alternative Construction Project Manager may also be requested]</i>  <b>[ for Tenders where the package contains more than one (1) lot, this qualification requirement may be necessary for each lot in the package, subject to the nature of the control required over each package]</b></p>	No	Position	Total Works Experience (years)	In Similar Works Experience (years)																												
No	Position	Total Works Experience (years)	In Similar Works Experience (years)																														
<b>ITT 18.1</b>	Tenderer shall own or have proven access to hire or lease of the major construction equipments, in full working order as follows :																																

	No	Equipment Type and Characteristics		Minimum Number Required
<b>[for Tenders where the package contains more than one (1) lot, this qualification requirement may be necessary for each lot in the package, subject to the nature of the control required over each package]</b>				
ITT 19.1	The value of non-judicial stamp for execution of the Joint Venture agreement shall be Tk [state amount] <i>[the value of the non-judicial stamp shall be Tk.300.00]</i>			
ITT 19.2	The <b>minimum qualification</b> requirements of Leading Partner and other Partner(s) of a JVCA shall be as follows :			
	TDS Clauses References	Requirements by summation	Requirements for Lead Partner of JVCA	Requirements for other Partner(s) of JVCA
	ITT-15.1(a)	Summation not applicable	Same as stated in TDS	Same as for Leading Partner
	ITT-15.1(b)	100%	At least one Contract	Minimum requirement not applicable
	ITT-16.1(a)	100%	40%	25%
	ITT-16.1(b)	100%	40%	25%
	ITT-17.1	100%	Minimum requirement not applicable	Minimum requirement not applicable
	ITT-18.1	100%	Minimum requirement	Minimum requirement not

		not applicable	applicable
<i>[it is suggested that the PE adheres to the above proportion of minimum qualifying requirements to meet the specific procurement needs. Percent share of business of the JVCA partners shall not be taken into account in determining the qualification of a JVCA]</i>			
<b>ITT 20.3</b>	The Nominated Subcontractor(s) named [insert name(s)] shall execute the following specific components of the proposed Works:  [state the components of the proposed works ; if not applicable state 'none']		

## D. Tender Preparation

<b>ITT 25.1 (K)</b>	Tenderer shall submit with its Tender the following additional documents:  <i>[in case of purchase of capital equipment by the Contractor as part of the overall Contract, a Performance Statement of the capital equipment in Bangladesh may be necessary and may be requested. if no other documents are required then specify "none"]</i>
<b>ITT 26.3</b>	The prices quoted by the Tenderer shall be fixed for the duration of the Contract.  OR  The prices quoted by the Tenderer shall be adjustable as follows:  <i>[if prices shall be adjustable, the methodology for adjustment should be specified]</i>
<b>ITT 30.1</b>	The required Technical Proposal shall include the following additional information:  <i>[state any other information that may be required]</i>
<b>ITT 32.1</b>	The Tender Validity period shall be [state number] days.  <i>[normally 60 to 120 days deemed reasonable depending on its complexity]</i>
<b>ITT 34.2</b>	The amount of the Tender Security shall be Tk [state amount]    <i>[for more than one lot in a package, the Tender Security for each lot should be mentioned separately. The amount of Tender Security should be expressed as a fixed amount not exceeding three(3) percent of the official estimated cost for each lot in all cases]</i>

## E. Tender Submission

<b>ITT 40.1</b>	The deadline for lodgment of e-Tenders is [state time, and identify a.m or p.m, i.e 10.30 a.m]
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	[state date i.e. 15 june,2011 ].
<b>G. Contract Award</b>	
<b>ITT 58.1</b>	<p>The amount of Performance Security shall be [state percentage] percent of the Contract Price.</p> <p><i>[usually ten(10) percent of the Contract price, however, should not be less than 5% if retention money is kept at least 5% of contract price; Maximum twenty five (25) percent of the total Contract price in case the Tender price is significantly below the updated official estimate or seriously unbalanced as a result of front loading]</i></p>

## Section 3. General Conditions of Contract

### A. General

1. Definitions      1.1 In the Conditions of Contract, which include Particular Conditions and these General Conditions, the following words and expressions shall have the meaning hereby assigned to them. Boldface type is used to identify the defined terms:
- (a) **Act** means The Public Procurement Act, 2006 (Act 24 of 2006).
  - (b) **Adjudicator** is the expert appointed jointly by the PE and the Contractor to resolve disputes in the first instance, as provided for in GCC Sub Clause 94.2.
  - (c) **Bill of Quantities (BOQ)** means the priced and completed Bill of Quantities forming part of the Contract defined in GCC Clause 60.
  - (d) **Compensation Events** are those defined in GCC Clause 69.
  - (e) **Competent Authority** means the authority that gives decision on specific issues as per delegation of administrative and/or financial powers.
  - (f) **Completion Certificate** means the Certificate issued by the Project Manager as evidence that the Contractor has executed the Works and Physical services in all respects as per design, drawing, specifications and Conditions of Contract.
  - (g) **Completion Date** is the actual date of completion of the Works and Physical services certified by the Project Manager, in accordance with GCC Clause 80.
  - (h) **Contract Agreement** means the Agreement entered into between the PE and the Contractor, together with the Contract Documents referred to therein, including all attachments, appendices, and all documents incorporated by reference therein to execute, complete, and maintain the Works.
  - (i) **Contract Documents** means the documents listed in GCC Clause 6, including any amendments thereto.
  - (j) **Contractor** means the Person under contract with the PE for the execution of Works under the Rules and the Act as stated in the **PCC**.
  - (k) **Contract Price** means the price payable to the Contractor as specified in the Contract Agreement, subject to such additions and adjustments thereto or deductions therefrom, for the execution, completion and maintenance of the Works in accordance with the provisions of the Contract.
  - (l) **Contractor's Tender** is the completed e- including the priced Bill of Quantities and the Schedules submitted by the Contractor to the PE.
  - (m) **Cost** means all expenditures reasonably incurred or to be

- incurred by the Contractor, whether on or off the Site, including overhead ,profit, taxes, duties, fees, and such other similar levies
- (n) **Day** means calendar day unless otherwise specified as working days.
- (o) **Dayworks** means work carried out following the instructions of the PE or the authorised Project Manager and is paid for on the basis of time spent by the Contractor's workers and equipment at the rates specified in the Schedules, in addition to payments for associated Materials and Plant.
- (p) **Defect** is any part of the Works not completed in accordance with the Contract.
- (q) **Defects Correction Certificate** is the certificate issued by the Project Manager upon correction of defects by the Contractor.
- (r) **Drawings** include calculations and other information provided in Section 9 or as approved by the Project Manager for the execution and completion of the Contract.
- (s) **Goods** mean the Contractor's Equipment, Materials, Plant and Temporary Works, or any of them as appropriate.
- (t) **Equipment** is the Contractor's apparatus, machinery, vehicles and other things required for the execution and completion of the Works and remedying any defects excluding Temporary Works and the PE's Equipment (if any ), Plant, Materials and any other things to form or forming part of the Permanent Works.
- (u) **Force Majeure** means an event or situation beyond the control of the Contractor that is not foreseeable, is unavoidable, and its origins not due to negligence or lack of care on the part of the Contractor; such events may include, but not be limited to, acts of the Government in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions, and freight embargoes or more as included in GCC Clause 85.;
- (v) **GCC** means the General Conditions of Contract.
- (w) **Government** means the Government of the People's Republic of Bangladesh .
- (x) "**Head of the PE**" means the Secretary of a Ministry or a Division, the Head of a Government Department or Directorate; or the Chief Executive, by whatever designation called, of a local Government agency, an autonomous or semi-autonomous body or a corporation, or a corporate body established under the Companies Act;
- (y) **Intended Completion Date** is the date calculated from the Commencement Date as specified in the **PCC**, on which it is intended that the Contractor shall complete the Works and Physical services as specified in the Contract and may be revised only by the Project Manager by issuing an extension of time or an acceleration order.
- (z) **Materials** means things of all kinds other than Plant

- intended to form or forming part of the Permanent Works, including the supply-only materials, if any, to be supplied by the Contractor under the Contract.
- (aa) **Month** means calendar month.
  - (bb) **Original Contract Price** is the Contract Price stated in the PE's Notification of Award (Form e-PW3-7) and further clearly determined in the **PCC**.
  - (cc) **Permanent works** means the permanent works to be executed by the Contractor under the Contract.
  - (dd) **PCC** means the Particular Conditions of Contract.
  - (ee) **Plant** means the apparatus, machinery and other equipment intended to form or forming part of the Permanent Works, including vehicles purchased for the PE and relating to the construction of the Works and Physical services.
  - (ff) **PE** means a PE having administrative and financial powers to undertake procurement of Works and Physical services using public funds and is as named in the **PCC** who employs the Contractor to carry out the Works.
  - (fff) **Development Partner** is the financier (partial or full) of this contract, as named in the **PCC**.
  - (gg) **Project Manager** is the person named in the **PCC** or any other competent person appointed by the PE and notified to the Contractor who is responsible for supervising the execution and completion of the Works and Physical services and administering the Contract.
  - (hh) **Provisional Sums** means amounts of money specified by the PE in the Bill of Quantities which shall be used, at its discretion, for payments to Nominated Subcontractor(s) and for meeting other essential expenditures under the Contract pursuant to GCC Sub Clause 77.
  - (ii) **Retention Money** means the accumulated retention moneys which the PE retains under GCC Clause 72.
  - (jj) **Schedules** means the document(s) entitled schedules, completed by the Contractor and submitted with the Tender Submission Letter, as included in the Contract. Such document may include the data, lists and schedules of rates and/or prices.
  - (kk) **Site** means the places where the Permanent Works are to be executed including storage and working areas and to which Plant and Materials are to be delivered, and any other places as may be specified in the **PCC** as forming part of the Site.
  - (ll) **Site Investigation Reports** are those that were included in the e-TD and are factual and interpretative reports about the surface and subsurface conditions at the Site.
  - (mm) **Specification** means the Specification of the Works included in the Contract and any modifications or additions to the specifications made or approved by the Project

- Manager in accordance with the Contract.
- (nn) **Start Date** is the date defined in the **PCC** and it is the last date when the Contractor shall commence execution of the Works under the Contract.
- (oo) **Subcontractor** means a person or corporate body, who has a contract with the Contractor to carry out a part of the work in the Contract, which includes work on the Site.
- (pp) **Temporary Works** means all temporary works of every kind other than Contractor's Equipment required on the Site for the execution and completion of the Permanent Works and remedying of any defects.
- (qq) **Variation** means any change to the Works directly procured from the original Contractor to cover increases or decreases in quantities, including the introduction of new work items that are either due to change of plans, design or alignment to suit actual field conditions, within the general scope and physical boundaries of the contract.
- (rr) **Works** means all works associated with the construction, reconstruction, site preparation, demolition, repair, maintenance or renovation of railways, roads, highways, or a building, an infrastructure or structure or an installation or any construction work relating to excavation, installation of equipment and materials, decoration, as well as physical services ancillary to works as detailed in the **PCC**, if the value of those services does not exceed that of the Works themselves.
- (ss) **Writing** means communication written by hand or machine duly signed and includes properly authenticated messages by facsimile or electronic mail.

## 2. Interpretation

- 2.1 In interpreting the GCC, singular also means plural, male also means female or neuter, and the other way around. Headings in the GCC shall not be deemed part thereof or be taken into consideration in the interpretation or construance of the Contract. Words have their normal meaning under the language of the Contract unless specifically defined.
- 2.2 Entire Agreement  
The Contract constitutes the entire agreement between the PE and the Contractor and supersedes all communications, negotiations and agreements (whether written or verbal) of parties with respect thereto made prior to the date of Contract Agreement; except those stated under GCC Sub Clause 6.1(j).
- 2.3 Non waiver  
(a) Subject to GCC Sub Clause 2.3(b), no relaxation, forbearance, delay, or indulgence by either party in enforcing any of the terms and conditions of the Contract or the granting of time by either party to the other shall prejudice, affect, or restrict the rights of that party under the

Contract, neither shall any waiver by either party of any breach of Contract operate as waiver of any subsequent or continuing breach of Contract.

- (b) Any waiver of a party's rights, powers, or remedies under the Contract must be in writing, dated, and signed by an authorized representative of the party granting such waiver, and must specify the right and the extent to which it is being waived.

#### 2.4 Severability

If any provision or condition of the Contract is prohibited or rendered invalid or unenforceable, such prohibition, invalidity or unenforceability shall not affect the validity or enforceability of any other provisions and conditions of the Contract.

#### 2.5 Sectional completion

If sectional completion is specified in the **PCC**, references in the GCC to the Works, the Completion Date, and the Intended Completion Date apply to any section of the Works (other than references to the Completion Date and Intended Completion Date for the whole of the Works).

<b>3. Communications and Notices</b>	3.1 Communications between Parties such as notice, request or consent required or permitted to be given or made by one party to the other pursuant to the Contract shall be in writing to the addresses specified in the <b>PCC</b> .
<b>4. Governing Law</b>	3.2 A notice shall be effective when delivered or on the notice's effective date, whichever is later.
<b>5. Governing Language</b>	3.3 A Party may change its address for notice hereunder by giving the other Party notice of such change to the address.
<b>4. Governing Law</b>	4.1 The Contract shall be governed by and interpreted in accordance with the laws of the People's Republic of Bangladesh.
<b>5. Governing Language</b>	5.1 The Contract shall be written in English. All correspondences and documents relating to the Contract may be written in English or <i>Bangla</i> . Supporting documents and printed literature that are part of the Contract may be in another language, provided they are accompanied by an accurate translation of the relevant passages in English, in which case, for purposes of interpretation of the Contract, such translation shall govern.
<b>6. Documents Forming the Contract and Priority of Documents</b>	5.2 The Contractor shall bear all costs of translation to the governing language and all risks of the accuracy of such translation.
<b>6. Documents Forming the Contract and Priority of Documents</b>	6.1 The following documents forming the Contract shall be interpreted in the following order of priority: (a) signed Contract Agreement ; (b) e-Notification of Award ; (c) completed e-Tender ;

- (d) the Particular Conditions of Contract;
  - (e) the General Conditions of Contract;
  - (f) the Technical Specifications;
  - (g) the General Specifications;
  - (h) the Drawings;
  - (i) the priced Bill of Quantities and the Schedules; and
  - (j) any other document listed in the **PCC** forming part of the Contract.
- 7. Scope of Works**
- 7.1 The Works to be executed, completed and maintained shall be as specified in the Bill of Quantities, the General and Particular Specifications and Drawings.
  - 7.2 Unless otherwise stipulated in the Contract, the Works shall include all such items not specifically mentioned in the Contract but that can be reasonably inferred from the Contract as being required for completion of the Works as if such items were expressly mentioned in the Contract.
- 8. Assignment**
- 8.1 Neither the Contractor nor the PE shall assign, in whole or in part, its obligations under the Contract
- 9. Eligibility**
- 9.1 The Contractor and its Subcontractor(s) shall have the nationality of a country other than that specified in the **PCC**.
  - 9.2 All materials, equipment, plant, and supplies used by the Contractor in both permanent and temporary works and services supplied under the Contract shall have their origin in the countries except any specified in the **PCC**.
- 10. Gratuities / Agency fees**
- 10.1 No fees, gratuities, rebates, gifts, commissions or other payments, other than those shown in the tender or in the Contract, have been given or received in connection with the procurement process or in the Contract execution.
- 11. Confidential Details**
- 11.1 The Contractor's and the PE's personnel shall disclose all such confidential and other information as may be reasonably required in order to verify the Contractor's compliance with the Contract and allow its proper implementation.
  - 11.2 Each of them shall treat the details of the Contract as private and confidential, except to the extent necessary to carry out their respective obligations under the Contract or to comply with applicable Laws. Each of them shall not publish or disclose any particulars of the Works prepared by the other Party without the previous agreement of the other Party. However, the Contractor shall be permitted to disclose any publicly available information, or information otherwise required to establish his qualifications to compete for other projects.
- 12. JVCA**
- 12.1 If the Contractor is a JVCA ,
    - (a) each partner of the JVCA shall be jointly and severally liable for all liabilities and ethical or legal obligations to the

		PE for the fulfilment of the promises of the Contract;
	(b)	the JVCA partners shall nominate a representative who shall have the authority to conduct all business including the receipt of payments for and on behalf of all partners of the JVCA;
	(c)	the JVCA shall notify the PE of its composition and legal status which shall not be altered without the prior approval of the PE.
	(d)	alteration of partners shall only be allowed if any of the partners is found to be incompetent or has any serious difficulties which may impact the overall implementation of the works.
<b>13. Possession of the Site</b>	13.1	The PE shall give possession of the Site or part(s) of the Site, to the Contractor on the date(s) stated in the <b>PCC</b> . If possession of a part of the Site is not given by the date stated in the <b>PCC</b> , the PE will be deemed to have delayed the start of the relevant activities, and this will be a Compensation Event as stated under GCC Sub Clause 69.1(a).
<b>14. Access to the Site</b>	14.1	The Contractor shall allow the Project Manager and any person authorised by the Project Manager access to the Site and to any place where work in connection with the Contract is being carried out or is intended to be carried out.
<b>15. PE's Responsibilities</b>	15.1	The PE shall pay the Contractor, in consideration of the satisfactory progress of execution and completion of the Works and Physical services, and the remedying of defects therein, the Contract price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract Agreement.
	15.2	The PE shall make its best effort to guide and assist the Contractor in obtaining, if required, any permit, licence, and approvals from local public authorities for the purpose of execution of the Works and Physical services under the Contract.
<b>16. Approval of the Contractor's Temporary Works</b>	16.1	The Contractor shall submit Specifications and Drawings showing the proposed Temporary Works to the Project Manager, who is to approve them, if they comply with the Specifications and Drawings.
	16.2	The Contractor shall be responsible for design of Temporary Works.
	16.3	The Project Manager's approval shall not alter the Contractor's responsibility for design of the Temporary Works.
	16.4	The Contractor shall obtain approval of third parties to the design of the Temporary Works, where required.
<b>17. Contractor's Responsibilities</b>	17.1	The Contractor shall execute and complete the Works and remedy any defects therein in conformity in all respects with the provisions of the Contract Agreement.

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| <b>18. Taxes and Duties</b>        | 18.1 The Contractor shall be entirely responsible for all taxes, duties, fees, and other such levies imposed inside and outside Bangladesh.   |
| <b>19. Contractor's Personnel</b>  | <p>19.1 The Contractor shall employ the key personnel named in the Schedule of Key Personnel, as referred to in the <b>PCC</b>, to carry out the functions stated in the Schedule or other personnel approved by the Project Manager.</p> <p>19.2 The Project Manager will approve any proposed replacement of key personnel only if their relevant qualifications and abilities are equal to or higher than those of the personnel named in the Schedule.</p> <p>19.3 If the Project Manager asks the Contractor to remove a particular person who is a member of the Contractor's staff or work force from the Site, he or she shall state the reasons, and the Contractor shall ensure that the person leaves the Site within three (3) days and has no further connection with the work in the Contract.</p>  |
| <b>20. Subcontracting</b>          | <p>20.1 Subcontracting the whole of the Works by the Contractor shall not be permissible. The Contractor shall be responsible for the acts or defaults of any Subcontractor, his or her agents or employees, as if they were the acts or defaults of the Contractor.</p> <p>20.2 The prior consent, in writing, of the Project Manager shall however be obtained for other proposed Subcontractor(s).</p> <p>20.3 Subcontractors shall comply with the provisions of GCC Clause 39.</p>   |
| <b>21. Nominated Subcontractor</b> | <p>21.1 Nominated Subcontractor named in the Contract shall be entitled to execute the specific components of the Works stated in the <b>PCC</b>.</p> <p>21.2 The Contractor shall not be under obligations to employ a Nominated Subcontractor against whom the Contractor raises reasonable objection by notice to the Project manager as soon as practicable, with supporting particulars while there are reasons to believe that the Subcontractor does not have sufficient competence, resources or financial strength, or does not accept to indemnify the Contractor against and from any negligence or misuse of Goods by the nominated Subcontractor.</p> <p>21.3 Subcontracting shall in no event relieve the Contractor from any of its obligations, duties, responsibilities, or liability under the Contract and all Subcontractors shall comply with the provisions of GCC Clause 39.</p> |
| <b>22. Other Contractors</b>       | 22.1 The Contractor shall cooperate and share the Site with other Contractors, public authorities, utilities, the Project Manager and the PE between the dates given in the Schedule of other Contractors. The Contractor shall also provide facilities and services for them as described in the Schedule. The PE may modify the Schedule of other Contractors, and shall notify the Contractor of any such modification.  |

<b>23. Project Manager's Decisions</b>	23.1 Except where otherwise specifically stated in the <b>PCC</b> , the Project Manager will decide Contractual matters between the PE and the Contractor in its role as representative of the PE.
<b>24. Delegation</b>	<p>24.1 The Project Manager may delegate any of his duties and responsibilities to his representative except to the Adjudicator, after notifying the Contractor, and may cancel any delegation, without retroactivity, after notifying the Contractor.</p> <p>24.2 Any communications to the Contractor in accordance with such delegation shall have the same effect as if it was given by the Project Manager.</p>
<b>25. Instructions,</b>	25.1 The Contractor shall carry out all instructions of the Project Manager that comply with the applicable law.
<b>26. Queries about the Contract conditions</b>	26.1 The Project Manager, on behalf of the PE, will clarify queries on the Conditions of Contract.
<b>27. Safety, Security and Protection of the Environment</b>	<p>27.1 The Contractor shall throughout the execution and completion of the Works and the remedying of any defects therein:</p> <ul style="list-style-type: none"> <li>(a) take all reasonable steps to safeguard the health and safety of all workers working on the Site and other persons entitled to be on it, and to keep the Site in an orderly state;</li> <li>(b) provide and maintain at the Contractor's own cost all lights, guards, fencing, warning signs and watching for the protection of the Works or for the safety on-site; and</li> <li>(c) take all reasonable steps to protect the environment on and off the Site and to avoid damage or nuisance to persons or to property of the public or others resulting from pollution, noise or other causes arising as a consequence of the Contractors methods of operation.</li> </ul>
<b>28. Working Hours</b>	28.1 The Contractor shall not perform any work on the Site on the weekly holidays, or during the night or outside the normal working hours, or on any religious or public holiday, without the prior written approval of the Project Manager.
<b>29. Welfare of Labourers</b>	<p>29.1 The Contractor shall comply with all the relevant labour Laws applicable to the Contractor's personnel relating to their employment, health, safety, welfare, immigration and shall allow them all their legal rights.</p> <p>29.2 The Contractor, in particular, shall provide proper accommodation to his or her labourers and arrange proper water supply, conservancy and sanitation arrangements at the site for all necessary hygienic requirements and for the prevention of epidemics in accordance with relevant regulations, rules and orders of the government.</p> <p>29.3 The Contractor, further in particular, shall pay reasonable wages to his or her labourers, and pay them in time. In the event of delay in payment the PE may effect payments to the labourers and</p>

recover the cost from the Contractor.

- 30. Child Labour** 30.1 The Contractor shall not employ any child to perform any work that is economically exploitative, or is likely to be hazardous to, or to interfere with, the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral, or social development in compliance with the applicable labor laws and other relevant treaties ratified by the government.
- 31. Discoveries** 31.1 Anything of historical or other interest or of significant value unexpectedly discovered on the Site shall be the property of the PE. The Contractor shall notify the Project Manager of such discoveries and carry out the Project Manager's instructions for dealing with them.
- 32. PE's and Contractor's Risks** 32.1 The PE carries the risks that the Contract states are PE's risks and the Contractor carries the risks that the Contract states are Contractor's risks.
- 33. PE's Risks** 33.1 From the Start Date until the Defects Correction Certificate has been issued, the following are PE's risks:
- (a) the risk of personal injury, death, or loss of or damage to property (excluding the Works, Plant, Materials, and Equipment), which are due to
    - i. use or occupation of the Site by the Works or for the purpose of the Works, which is the unavoidable result of the Works or
    - ii. negligence, breach of statutory duty, or interference with any legal right by the PE or by any person employed by or Contracted to him except the Contractor.
  - (b) the risk of damage to the Works, Plant, Materials, and Equipment to the extent that it is due to a fault of the PE or in the PE's design, or due to war or radioactive contamination directly affecting the country where the Works are to be executed.
- 33.2 From the Completion Date until the Defects Correction Certificate has been issued, the risk of loss of or damage to the Works, Plant, and Materials is PE's risk, except loss or damage due to:
- (a) a Defect which existed on the Completion Date;
  - (b) an event occurring before the Completion Date, which was not itself PE's risk; or
  - (c) the activities of the Contractor on the Site after the Completion Date.
- 34. Contractor's Risks** 34.1 From the Start Date until the Defects Correction Certificate has been issued the risks of personal injury, death, and loss of or damage to property including without limitation, the Works, Plant, Materials, and Equipment, which are not PE's risks are

- Contractor's risks.
- 35. Copyright**
- 35.1 The copyright in all drawings, documents, and other materials containing data and information furnished to the PE by the Contractor herein shall remain vested in the Contractor, or, if they are furnished to the PE directly or through the Contractor by any third party, including Suppliers of materials, the copyright in such materials shall remain vested in such third party.
- 35.2 The Contractor shall not, except for the purposes of performing the obligations under the Contract, without the written permission of the PE disclose or make use of any specification, plan, design and drawing, pattern, sample or information furnished by or on behalf of the PE.
- 36. Limitation of Liability**
- 36.1 Except in cases of criminal negligence or wilful misconduct:
- (a) the Contractor shall not be liable to the PE, whether in Contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the Contractor to pay liquidated damages to the PE; and
- (b) the aggregate liability of the Contractor to the PE, whether under the Contract, in tort or otherwise, shall not exceed the total Contract Price, provided that this limitation shall not apply to the cost of repairing or replacing defective Works, or to any obligation of the Contractor to indemnify the PE with respect to patent infringement.
- 37. Insurance**
- 37.1 The Contractor shall provide, in the joint names of the PE and the Contractor, insurance cover from the Start Date to the end of the Defects Liability Period, in the amounts and deductibles specified in the **PCC** for the following events which are due to the Contractor's risks:
- (a) loss of or damage to the Works, Plant, and Materials;
- (b) loss of or damage to Equipment;
- (c) loss of or damage to property (except the Works, Plant, Materials, and Equipment) in connection with the Contract; and
- (d) personal injury or death.
- 37.2 The Contractor shall deliver policies and certificates of insurance to the Project Manager, for the Project Manager's approval, before the Start Date. All such insurances shall provide for compensation to be payable in the types and proportions of currencies required to rectify the loss or damage incurred.
- 37.3 If the Contractor does not provide any of the policies and certificates required, the PE may effect the insurance which the Contractor should have provided and recover the premiums the PE has paid from payments otherwise due to the Contractor or,

- if no payment is due, the payment of the premiums shall be a debt due.
- 37.4 Alterations to the terms of insurance shall not be made without the approval of the Project Manager.
- 37.5 Both parties shall comply with conditions of the insurance policies.
- 38. Management and Progress Meetings**
- 38.1 Either the Project Manager or the Contractor may require the other to attend a management and progress meeting. The business of such meeting shall be to review the progress and plans for remaining work and to deal with matters raised in accordance with the early warning procedure.
- 38.2 The Project Manager shall record the business of the meetings and provide copies of the record to those attending the meeting and to the PE. The responsibility of the parties for actions to be taken shall be decided by the Project Manager either at the management and progress meeting or after the meeting, and stated in writing to all concerned.
- 39. Corrupt, Fraudulent, Collusive, Coercive or Obstructive Practices**
- 39.1 The Government and the Development Partner require that PE, as well as the Contractor (including their suppliers, sub-contractors, agents, personnel, consultants, and service providers) shall observe the highest standard of ethics during the implementation of procurement proceedings and the execution of the Contract under public fund.
- 39.2 For the purposes of GCC Sub Clause 39.3, the terms set forth below as follows:
- (a) “corrupt practice” means offering, giving or promising to give, receiving, or soliciting either directly or indirectly, to any officer or employee of a PE or other public or private authority or individual, a gratuity in any form; employment or any other thing or service of value as an inducement with respect to an act or decision or method followed by a PE in connection with a Procurement proceeding or Contract execution;
  - (b) “fraudulent practice” means the misrepresentation or omission of facts in order to influence a decision to be taken in a Procurement proceeding or Contract execution;

- (c) "collusive practice" means a scheme or arrangement between two (2) or more Persons, with or without the knowledge of the PE, that is designed to arbitrarily reduce the number of Tenders submitted or fix Tender prices at artificial, non-competitive levels, thereby denying a PE the benefits of competitive price arising from genuine and open competition;
  - (d) "coercive practice" means harming or threatening to harm, directly or indirectly, Persons or their property to influence a decision to be taken in the Procurement proceeding or the execution of the Contract, and this will include creating obstructions in the normal submission process used for Tenders; or
  - (e) "obstructive practice" means deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede an investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; and also means acts intended to materially impede the exercise of the inspection and audit rights provided for under GCC Sub-Clause 39.6.
- 39.3 Should any corrupt, fraudulent, collusive, coercive practice or obstructive practice of any kind, in competing for or in executing the Contract, is determined by the Procuring Entity, then the Procuring Entity may, upon giving 28 days' notice to the Contractor, terminate the Contractor's employment under the Contract and expel the contractor from the site, and the provisions of Clause 89 shall apply as if such expulsion had been made under sub-clause 89.1 (Termination for Default).
- 39.4 If corrupt, fraudulent, collusive, coercive or obstructive practices of any kind determined by the PE or the Development Partner against the Contractor (including its suppliers, sub-contractors, agents personnel, consultants, and service providers) alleged to have carried out such practices, the PE and/or the Development Partner shall :
- (a) exclude the Contractor from further participation in the particular Procurement proceeding; or
  - (b) declare, at its discretion, the Contractor to be ineligible to participate in further Procurement proceedings, either indefinitely or for a specific period of time.
- 39.5 The Contractor shall be aware of the provisions on corruption, fraudulence, collusion, coercion and obstruction of the Public Procurement Act, 2006, the Public Procurement Rules, 2008 and in case of Development Partner financed contract, the Procurement Guidelines of the Development Partner.
- 39.6 The Contractor (including its suppliers, sub-contractors, agents,

personnel, consultants, and service providers) shall permit the Government and/or the development Partner to inspect the Contractor's accounts and records and other documents relating to the submission of tender and contract performance, and to have them audited by auditors appointed by the Government and/or the development Partner, if so required.

## B. Time Control

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| <b>40. Commencement of Works</b> | 40.1 Except otherwise specified in the <b>PCC</b> , the Commencement Date shall be the date at which the following precedent conditions have all been fulfilled and the Project Manager's instruction recording the agreement of both Parties on such fulfilment and instructing to commence the Works is received by the Contractor:<br><br>(a) signing of the Contract Agreement by both parties upon approval of the by relevant authorities;<br>(b) possession of the Site given to the Contractor as required for the commencement of the Works; and<br>(c) receipt by the Contractor of the Advance Payment under GCC Clause 75 provided that the corresponding Bank Guarantee has been delivered by the Contractor, if any.  |
|                                  | 40.2 The Contractor shall commence the execution of the Works as soon as is reasonably practicable by the <b>Start Date</b> as specified in the GCC Sub Clause 1.1(nn) after the Commencement Date, and shall then proceed with the Works with due expedition and without delay.  |
| <b>41. Completion of Works</b>   | 41.1 The Contractor shall carry out the Works in accordance with the Programme of Works submitted by the Contractor and as updated with the approval of the Project Manager as stated under GCC Clause 42 to complete them in all respects by the Intended Completion Date.   |
| <b>42. Programme of Works</b>    | 42.1 Within the time stated in the <b>PCC</b> , the Contractor shall submit to the Project Manager for approval a Programme of Works showing the general methods, arrangements, order, and timing for all the activities in the Works. The programme may be in the form of an Implementation Schedule prepared in any software or other form acceptable to the Project Manager.<br><br>42.2 The Contractor shall submit to the Project Manager for approval of an updated Programme at intervals no longer than the period stated in the <b>PCC</b> . An update of the Programme shall be a Programme showing the actual progress achieved on each activity and the effect of the progress achieved on the timing of the remaining work, including any changes to the sequence of the activities.<br><br>42.3 If the Contractor does not submit an updated Programme of Works at the intervals as stated under GCC Sub Clause 42.2, the Project Manager may withhold an amount as stated in the <b>PCC</b> from the next payment certificate and continue to withhold |

		this amount until the next due payment after the date on which the overdue Programme of Works has been submitted.
	42.4	The Project Manager's approval of the Programme of Works shall not alter the Contractor's obligations. The Contractor may revise the Programme and submit it to the Project Manager again at any time for approval. A revised Programme shall show the effect of Variations and Compensation Events.
<b>43. Pro Rata Progress</b>	43.1	The Contractor shall maintain Pro Rata progress of the Works. Progress to be achieved shall be pursuant to GCC Clause 42 and shall be determined in terms of the value of the works done.
<b>44. Early Warning</b>	44.1	If at any time during performance of the Contract, the Contractor or its Subcontractors should encounter events, circumstances, conditions that may adversely affect the quality of the work, increase the original Contract Price or delay the execution of the Works, the Contractor shall promptly notify the Project Manager in writing of the delay, its likely duration, and its cause. As soon as practicable after receipt of the Contractor's notice, the Project Manager shall evaluate the situation, and the Contractor shall cooperate with the Project Manager in making and considering proposals for how the effect of such an event or circumstance can be avoided or reduced.
	44.2	The Project Manager may require the Contractor to provide an estimate of the expected effect of the future event or circumstance on the original Contract price and Completion Date. The Contractor shall provide the estimate and the Project Manager shall further proceed as soon as reasonably possible.
<b>45. Extension of Intended Completion Date</b>	45.1	The Contractor shall be entitled to an extension of the Intended Completion Date, if and to the extent that completion of the Works or any part thereof is or will be delayed by Compensation Events or a Variation or Extra Work Order.
	45.2	The Project Manager shall decide whether and by how much to extend the Intended Completion Date within twenty-one (21) days of the Contractor asking the Project Manager for a decision upon the effect of a Compensation Event or Variation and submitting full supporting information. If the Contractor has failed to give early warning of a delay or has failed to cooperate in dealing with a delay, the delay by this failure shall not be considered in assessing the extension of Intended Completion Date.
	45.3	Except in case of Force Majeure, as provided under GCC Clause 85, a delay by the Contractor in the performance of its Completion obligations shall render the Contractor liable to the imposition of Liquidated Damages pursuant to GCC Clause 73, unless an extension of Intended Completion Date is agreed upon, pursuant to GCC Clause 45.
<b>46. Delays Caused by Authorities</b>	46.1	If the following conditions apply,

namely:

- (a) the Contractor has diligently followed the procedures laid down by the relevant legally constituted public authorities,
- (b) these public authorities delay or disrupt the Contractor's work, and
- (c) the delay or disruption was unforeseeable;

then this delay or disruption will be considered as a cause of delay under GCC Sub Clause 45.1.

46.2 The Project Manager shall notify the Contractor accordingly keeping the PE posted.

**47. Acceleration**

47.1 When the PE wants the Contractor to finish the Works before the Intended Completion Date, the Project Manager will obtain priced proposals for achieving the necessary acceleration from the Contractor. If the PE accepts these proposals, the Intended Completion Date will be advanced accordingly and confirmed by both the PE and the Contractor.

47.2 If the PE accepts the Contractor's priced proposals for acceleration, they will be incorporated in the Contract Price and treated as a **Variation** under GCC Clause 62.

**48. Delays Ordered by the Project Manager**

48.1 The Project Manager may instruct the Contractor to delay the start or progress of any activity within the Works.

**49. Suspension of Work**

49.1 The Project Manager may at any time instruct the Contractor to suspend progress of part or all of the Works. During such suspension, the Contractor shall protect, store and secure such part or the Works against any deterioration, loss or damage.

**50. Consequences of Suspension**

50.1 If the Contractor suffers delay and/or incurs Cost from complying with the Project Manager's instructions under GCC Clause 49 and/or from resuming the work, the Contractor shall give notice to the Project Manager and shall be entitled subject to GCC Clause 93 to:

- (a) an extension of time for any such delay, if Completion is or will be delayed and
- (b) payment of any such cost, which shall be included in the Contract Price.

50.2 After receiving this notice, the Project Manager shall proceed to agree or determine these matters.

50.3 The Contractor shall not be entitled to any extension of time for, or to any payment of the cost incurred in, making good the consequences of the Contractor's faulty design, workmanship or materials, or of the Contractor's failure to protect, store or secure in accordance with GCC Clause 49.

**C. Quality Control**

<b>51. Execution of Works</b>	51.1 The Contractor shall construct, install and carry out the Works and Physical services in accordance with the Specifications and Drawings as scheduled in GCC Clause 6.
<b>52. Examination of Works before covering up</b>	<p>52.1 All works under the Contract shall at all times be open to examination, inspection, measurements, testing and supervision of the Project Manager, and the Contractor shall ensure presence of its representatives at such actions provided proper advance notice is given by the Project Manager.</p> <p>52.2 No part of the Works shall be covered up or put out of sight without the approval of the Project Manager. The Contractor shall give notice in writing to the Project Manager whenever any such part of the Works is ready for examination and the Project Manager shall attend to such examination without unreasonable delay.</p>
<b>53. Identifying Defects</b>	53.1 The Project Manager shall check the works executed by the Contractor and notify the Contractor of any Defects found. Such checking shall not relieve the Contractor from his or her obligations. The Project Manager may also instruct the Contractor to search for a Defect and to uncover and test any work that the Project Manager considers may have a Defect.
<b>54. Testing</b>	54.1 If the Project Manager instructs the Contractor to carry out a test not specified in the Specification to check whether any work has a Defect and the test shows that it does, the Contractor shall pay for the test and any samples. If there is no Defect, the test shall be a Compensation Event.
<b>55. Rejection of Works</b>	55.1 If, as a result of an examination, inspection, measurement or testing, of Works it is found to be defective or otherwise not in accordance with the Contract, the Project Manager may reject the Works by giving notice to the Contractor, with reasons. The Contractor shall then promptly make good the defect and ensure that the rejected Works subsequently complies with the Contract.
<b>56. Remedial Work</b>	<p>56.1 Notwithstanding any test or certification, the Project Manager may instruct the Contractor to:</p> <ul style="list-style-type: none"> <li>(a) remove from the Site and replace any Plant or Materials which is not in accordance with the Contract,</li> <li>(b) remove and re-execute any other work which is not in accordance with the Contract, and</li> <li>(c) execute any work which is urgently required for the safety of the Works, whether because of an accident, unforeseeable event or otherwise.</li> </ul> <p>56.2 The Contractor shall comply with the instruction issued under GCC Sub Clause 56.1 within a reasonable time, which shall be specified in the instruction, or immediately if urgency is specified under GCC Sub Clause 56.1(c).</p>

- 56.3 If the Contractor fails to comply with the instruction issued under GCC Sub Clause 56.2, the PE shall be entitled to employ and pay other persons to carry out the work. Except to the extent that the Contractor would have been entitled to payment for the work, the Contractor shall be liable to pay all such costs arising from this failure.
- 57. Correction of Defects**
- 57.1 The Project Manager shall give notice to the Contractor, with a copy to the PE and others concerned, of any Defects before the end of the Defects Liability Period, which begins at Completion Date, and is defined in the **PCC**. The Defects Liability Period shall be extended for as long as Defects remain to be corrected.
- 57.2 Every time notice of a Defect is given, the Contractor shall correct the notified Defect within the length of time specified by the Project Manager's notice.
- 58. Uncorrected Defects**
- 58.1 If the Contractor has not corrected a Defect within the time specified in the Project Manager's notice, the Project Manager shall assess the cost of having the Defect corrected by it, and the Contractor shall remain liable to pay the expenditures incurred on account of correction of such Defect.

#### **D. Cost Control**

- 59. Contract Price**
- 59.1 The Contract Price shall be as specified in the Contract Agreement subject to any additions and adjustments thereto, or deductions therefrom, as may be made pursuant to Contract
- 60. Bill of Quantities**
- 60.1 The Bill of Quantities shall contain priced items for the construction, installation, testing, and commissioning work to be done by the Contractor.
- 60.2 The Bill of Quantities is used to calculate the Contract Price. The Contractor is paid for the quantity of the work done at the rate in the Bill of Quantities for each item.
- 61. Changes in the Quantities and Unit Rate or Price**
- 61.1 If the final quantity of the work done for any particular item increases from the quantity in the Bill of Quantities by more than twenty-five percent (25%), provided the change in case exceeds one percent (1%) of the original Contract Price, the Project Manager shall adjust the rate to allow for the change.
- 61.2 If requested by the Project Manager, the Contractor shall provide the Project Manager with a detailed cost breakdown of any rate in the Bill of Quantities.
- 62. Variations**
- 62.1 All Variations and Extra Work Orders under the Contract shall be included in the updated Programme of Works produced by the Contractor.
- 63. Costing of Variations or**
- 63.1 The Contractor shall provide the Project Manager with a quotation for carrying out the Variation when requested to do so by the Project Manager. The Project Manager shall assess

<b>Extra Orders</b>	<p>the quotation, which shall be given within seven (7) days of the request or within any longer period stated by the Project Manager and before the Variation is ordered.</p> <p>63.2 If the work in the Variation corresponds with an item description in the Bill of Quantities and if, in the opinion of the Project Manager, the quantity of work not above the limit stated in GCC Sub-Clause 61.1 or the timing of its execution do not cause the cost per unit of quantity to change, the rate in the Bill of Quantities shall be used to calculate the value of the Variation. If the cost per unit of quantity changes, or if the nature or timing of the work in the Variation does not correspond with items in the Bill of Quantities, the quotation by the Contractor shall be in the form of new rates for the relevant items of work.</p> <p>63.3 If the Contractor's quotation is found to be unreasonable, the Project Manager may order the Variation and make a change to the Contract price, which shall be based on the Project Manager's own forecast of the effects of the Variation on the Contractor's costs.</p> <p>63.4 If the Project Manager decides that the urgency of varying the work would prevent a quotation being given and considered without delaying the work, no quotation shall be given and the Variation shall be treated as a Compensation Event under GCC Sub Clause 69.</p> <p>63.5 The Contractor shall not be entitled to additional payment for costs that could have been avoided by giving early warning under GCC Sub Clause 44.1.</p>
<b>64. Cash Flow Forecasts</b>	<p>64.1 When the Programme of Works is updated under GCC Sub Clause 42.2, the Contractor shall provide the Project Manager with an updated cash flow forecast.</p>
<b>65. Payment Certificates</b>	<p>65.1 The basis for payment certificates shall be Bill of Quantities used to determine the Contract price.</p> <p>65.2 The Contractor shall submit to the Project Manager monthly statements of the estimated value of the works executed less the cumulative amount certified previously.</p> <p>65.3 The Project Manager shall check the Contractor's monthly statement and certify the amount to be paid to the Contractor.</p> <p>65.4 The value of work executed shall be determined by the Project Manager.</p> <p>65.5 The value of work executed shall include the valuation of Variations or Extra Work Orders, Certified Dayworks and Compensation Events.</p> <p>65.6 The Project Manager may exclude any item certified in a previous certificate or reduce the proportion of any item previously certified in any certificate in the light of later</p>

		information.
<b>66. Payments to the Contractor</b>	66.1	Payments shall be adjusted for deductions for advance payments and retention. The PE shall pay the Contractor the amounts certified by the Project Manager within twenty eight (28) days of the date of each certificate after due adjustments for deductions for advance payments, retention and any other additions or deductions which may have become due under the Contract or otherwise, including those under GCC Clause 93.
	66.2	Items of works quantified in the Bill of Quantities for which no rates or prices have been quoted shall be deemed covered by the amounts at rates and prices of other items in the Contract.
	66.3	Payments due to the Contractor in each certificate shall be made into the Bank Account in any scheduled Bank of Bangladesh of the title of the Contract specified in the <b>PCC</b> , nominated by the Contractor in the currency specified in the Contract.
<b>67. Delayed Payment</b>	67.1	If the PE makes a late payment, the Contractor shall be paid interest on the late payment in the next payment. Interest shall be calculated from the date by which the payment should have been made up to the date when the late payment is made at the prevailing rate of interest for commercial borrowing for each of the currencies in which payments are made.
	67.2	If an amount certified is increased in a subsequent certificate as a result of an award by the Adjudicator or an Arbitrator, the Contractor shall be paid interest upon the delayed payment as set out in this clause. Interest shall be calculated from the date upon which the increased amount would have been certified in the absence of dispute.
<b>68. Payments to Nominated Subcontractor(s)</b>	68.1	The Contractor shall pay to the Nominated Subcontractor(s) the amounts shown on the Nominated Subcontractor's invoices approved by the Contractor which the Project Manager certifies to be due in accordance with the subcontract included under the Contract.
<b>69. Compensation Events</b>	69.1	<p>The following shall be Compensation Events:</p> <ul style="list-style-type: none"> <li>(a) The PE does not give access to or possession of the Site or part of the Site by the Site Possession Date stated in the GCC Sub Clause 13.1;</li> <li>(b) The PE modifies the Schedule of other Contractors in a way that affects the works of the Contractor under the Contract;</li> <li>(c) The Project Manager orders a delay or does not issue Drawings, Specifications, or instructions required for execution of the Works on time;</li> <li>(d) The Project Manager instructs the Contractor to uncover or to carry out additional tests upon work, which is then found to have no Defects;</li> </ul>

- (e) The Project Manager unreasonably does not approve a subcontract to be let, if applicable;
  - (f) Ground conditions are substantially more adverse than could reasonably have been assumed before issuance of the Notification of Award from the information issued to Tenderers (including the Site Investigation Reports), from information available publicly and from a visual inspection of the Site;
  - (g) The Project Manager gives an instruction for dealing with an unforeseen condition, caused by the PE, or additional work required for safety or other reasons;
  - (h) Other Contractors, public authorities, utilities, or the PE do not work within the dates and other constraints stated in the Contract, and they cause delay or extra cost to the Contractor;
  - (i) The advance payment is delayed;
  - (j) The effects on the Contractor of any of the PE's Risks;
  - (k) The Project Manager unreasonably delays issuing a Completion Certificate;
  - (l) A situation of Force Majeure has occurred, as defined in GCC Clause 85; and
  - (m) Other Compensation Events described in the Contract or determined by the Project Manager in the **PCC** shall apply.
- 69.2 If a Compensation Event would cause additional cost or would prevent the work being completed before the Intended Completion Date, the Contract price shall be increased and/or the Intended Completion Date shall be extended. The Project Manager shall decide whether and by how much the Contract price shall be increased and whether and by how much the Intended Completion Date shall be extended, only on justifiably acceptable grounds duly recorded.
- 69.3 As soon as the Contractor has provided information demonstrating the effect of each Compensation Event upon the Contractor's forecast cost, the Project Manager shall assess it, and the Contract price shall be adjusted accordingly. If the Contractor's forecast is deemed unreasonable, the Project Manager shall adjust the Contract price based on the Project Manager's own forecast. The Project Manager will assume that the Contractor will react competently and promptly to the event.
- 69.4 The Contractor shall not be entitled to compensation to the extent that the PE's interests are adversely affected by the Contractor not having given early warning or not having cooperated with the Project Manager.
- 70. Adjustments for Changes in**
- 70.1 Unless otherwise specified in the Contract, if between the date twenty-eight (28) days before the submission of Tenders for

**Legislation**

the Contract and the date of the last Completion Certificate, any law, regulation, ordinance, order or bylaw having the force of law is enacted, promulgated, abrogated, or changed in Bangladesh (which shall be deemed to include any change in interpretation or application by the competent authorities) that subsequently affects the Completion Date and/or the Contract price, then such Completion Date and/or Contract price shall be correspondingly increased or decreased, to the extent that the Contractor has thereby been affected in the performance of any of its obligations under the Contract.

- 70.2 The Project Manager shall adjust the Contract Price on the basis of the change in the amount of taxes, duties, and other levies payable by the Contractor, provided such changes have not already been accounted for in the price adjustment as defined in GCC Clause 69 and/or reflected in the Contract price.

**71. Price Adjustment**

- 71.1 Prices shall be adjusted for fluctuations in the cost of inputs only if provided for in the **PCC**. If so provided, the amounts as certified in each payment certificate, before deducting for Advance Payment, shall be adjusted by applying the respective price adjustment factor to the payment amount. The formula indicated below applies:

$$P = A + B \left( \frac{I_m}{I_o} \right)$$

where:

**P** is the adjustment factor

**A** and **B** are Coefficients specified in the **PCC**, representing the nonadjustable and adjustable portions, respectively, of the Contract; and

**I<sub>m</sub>** is the Index during the month the work has been executed and **I<sub>o</sub>** is the Index prevailing twenty eight (28) days prior to the deadline for submission of Tender.

The Indexes to be used is as published by the Bangladesh Bureau of Statistics (BBS) on a monthly basis. In case not available, then other countries or authorities of the sources mentioned in **Appendix to the Tender** may be used.

**72. Retention Money**

- 72.1 The PE may retain from each progressive payment due to the Contractor at the percentage specified in the **PCC** until completion of the whole of the Works under the Contract.
- 72.2 On completion of the whole of the Works, the first half the total amount retained under GCC Sub Clause 72.1 shall be repaid to the Contractor and the remaining second half after the Defects Liability Period has passed and the Project Manager has certified in the form of **Defects Corrections Certificate**.
- 72.3 On completion of the whole of the Works, the Contractor may substitute an unconditional Bank Guarantee in the format as specified (**Form PW3-11**) acceptable to the PE for the second half of the retention money as stated under GCC Sub Clause

72.2.

- |                                 |   |
|---------------------------------|---|
| <b>73. Liquidated Damages</b>   | 73.1 The Contractor shall pay liquidated damages <sup>16</sup> to the PE at the rate per day stated in the <b>PCC</b> for each day that the Completion Date is later than the Intended Completion Date. The total amount of liquidated damages shall not exceed the amount defined in the <b>PCC</b> . The PE may deduct liquidated damages from payments due to the Contractor. Payment of liquidated damages shall not affect the Contractor's liabilities.   |
|                                 | 73.2 If the Intended Completion Date is extended after liquidated damages have been paid, the Project Manager shall correct any overpayment of liquidated damages by the Contractor by adjusting the next payment certificate.  |
| <b>74. Bonus</b>                | 74.1 The Contractor shall be paid a Bonus calculated at the rate per calendar day <b>if stated in the PCC</b> for each day (less any days for which the Contractor is paid for acceleration) that the Completion of the whole of the Works is earlier than the Intended Completion Date. The Project Manager shall require certifying that the Works are complete, although they may not have fallen due to being complete as per approved updated Programme of Works.  |
| <b>75. Advance Payment</b>      | 75.1 If so specified in the <b>PCC</b> , the PE shall make advance payment to the Contractor of the amounts and by the dates stated in the <b>PCC</b> against provision by the Contractor of an Unconditional Bank Guarantee in a form and by a bank acceptable to the PE in an amount equal to the advance payment. The Guarantee shall remain effective until the advance payment has been repaid, but the amount of the Guarantee shall be progressively reduced by the amounts repaid by the Contractor. Interest will not be charged on the advance payment.<br><br>75.2 The Contractor shall use the advance payment only to pay for Equipment, Plant, Materials, and mobilization expenses required specifically for execution of the Contract. The Contractor shall demonstrate that advance payment has been used for such specific purposes by supplying copies of invoices or other documents to the Project Manager.<br><br>75.3 The advance payment shall be repaid by deducting at proportionate rate from payments otherwise due to the Contractor, following the schedule of completed percentages of the Works on a payment basis. No account shall be taken of the advance payment or its repayment in assessing valuations of work done, Variations, price adjustments, Compensation Events, Bonuses, or Liquidated Damages. |
| <b>76. Performance Security</b> | 76.1 The PE shall notify the Contractor of any claim made against the Bank issuing the Performance Security.  |

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<sup>16</sup> Usually liquidated damages are set between 0.05 percent and 0.10 percent per day, and the total amount is not to exceed between 5 percent and 10 percent of the Contract Price.

- 76.2 The PE may claim against the security if any of the following events occurs for fourteen (14) days or more.
- (a) The Contractor is in breach of the Contract and the PE has duly notified him or her ; and
  - (b) The Contractor has not paid an amount due to the PE and the PE has duly notified him or her.
- 76.3 In the event the Contractor is liable to pay compensation under the Contract amounting to the full value of the Performance Security or more, the PE may call the full amount of the Performance Security.
- 76.4 The Performance Security furnished at the time of signing of the Contract Agreement shall be substituted, after the issuance of certificate of Completion of works by the Project Manager, by a new Security covering fifty (50) percent amount of the Performance Security to cover the Defects Liability Period.
- 76.5 If there is no reason to call the Performance Security, the Performance Security shall be discharged by the PE and returned to the Contractor after the Defects Liability period has passed and the Project Manager has certified in the form of Defects Corrections Certificates . .
- 77. Provisional Sums**
- 77.1 Provisional Sums shall only be used, in whole or in part, in accordance with the Project Manager's instructions and the Contract price shall be adjusted accordingly. The total sum paid to the Contractor shall include only such amounts, for the work, supplies or services to which the Provisional Sum relates, as the Project Manager shall have instructed.
- 77.2 Plants, Materials or Services to be purchased by the Contractor under the provisions of GCC Sub Clause 77.1 from Nominated Subcontractor(s) or for meeting the other expenditures under the Contract, and for which there shall be included in the Contract price, the actual amounts paid or due to be paid by the Contractor, and a sum for VAT, profit and overhead charges, as applicable, calculated as a percentage of these actual amounts by applying the relevant percentage rate stated in the **PCC**.
- 77.3 The Contractor shall, when required by the Project Manager, produce quotations, invoices, vouchers and accounts or receipts in substantiation of purchases under GCC Sub Clause 77.2.
- 78. Dayworks**
- 78.1 If applicable, the Dayworks rates in the Contractor's Tender shall be used for small additional amounts of work only when the Project Manager has given written instructions in advance for additional work to be paid for in that way.
- 78.2 All works to be paid for as Dayworks shall be recorded by the Contractor on forms approved by the Project Manager. Each

	completed form shall be certified and signed by the Project Manager within seven (7) days of the works being done.
78.3	The Contractor shall be paid for Dayworks subject to obtaining signed Dayworks forms.
<b>79. Cost of Repairs to Loss or Damages</b>	79.1 Loss or damage to the Works or Materials to be incorporated in the Works between the Start Date and the end of the Defects Liability Period shall be remedied by the Contractor at the Contractor's own cost, if the loss or damage arises from the Contractor's acts or omissions.
	<b>E. Completion of the Contract</b>
<b>80. Completion</b>	80.1 The Contractor shall apply by notice to the Project Manager for issuing a Completion Certificate of the Works, and the Project Manager shall do so upon deciding that the work is completed.
<b>81. Taking Over</b>	81.1 The PE shall take over the Site and the Works within seven (7) days of the Project Manager's issuing a certificate of Completion.
<b>82. Amendment to Contract</b>	82.1 The amendment to Contract shall generally include extension of time to the Intended Completion Date, increase or decrease in original Contract price and any other changes acceptable under the conditions of the Contract.  82.2 The PE, in accordance with the Delegation of Financial Power or sub-delegation thereof, shall amend the Contract incorporating the changes introduced to the original terms and conditions of the Contract in line with the Rules.
<b>83. Final Account</b>	83.1 The Contractor shall submit with a detailed account of the total amount that the Contractor considers payable under the Contract to the Project Manager before the end of the <b>Defects Liability Period</b> .  83.2 The Project Manager shall certify the <b>Final Payment</b> within fifty six (56) days of receiving the Contractor's account if the payable amount claimed by the Contractor is correct and the corresponding works are completed.  83.3 If it is not, the Project Manager shall issue within fifty six (56) days a <b>Defects Liability Schedule</b> that states the scope of the corrections or additions that are necessary.  83.4 If the <b>Final Account of Works</b> submitted under GCC Sub Clause 83.1 is unsatisfactory even after it has been resubmitted, the Project Manager shall decide on the amount payable to the Contractor and issue a payment certificate.
<b>84. As-built Drawings and Manuals</b>	84.1 If "As Built" Drawings and/or operating and maintenance manuals are required, the Contractor shall supply them by the dates stated in the <b>PCC</b> .

	84.2 If the Contractor does not supply the Drawings and/or Manuals by the dates specified in GCC Sub Clause 84.1, or they do not receive the Project Manager's approval, the Project Manager shall withhold a nominal amount specified in the <b>PCC</b> from payments due to the Contractor.
<b>85. Force Majeure</b>	<p>85.1 Force Majeure may include, but is not limited to, exceptional events or circumstances of the kind stated below;</p> <ul style="list-style-type: none"> <li>(a) war, hostilities (whether war be declared or not), invasion, act of foreign enemies ;</li> <li>(b) rebellion, terrorism, sabotage by persons other than the Contractor's personnel, revolution, insurrection, military or usurped power, or civil war ;</li> <li>(c) riot, commotion, disorder, strike or lockout by persons other than the Contractor's personnel ;</li> <li>(d) munitions of war, explosive materials, ionising radiation or contamination by radio-activity, except as may be attributable to the Contractor's use of such munitions, explosives, radiation or radio-activity ;</li> </ul> <p>and</p> <ul style="list-style-type: none"> <li>(e) natural catastrophes such as fires, floods, epidemics, quarantine restrictions, freight embargoes, cyclone, hurricane, typhoon, tsunami, storm surge, earthquake, hill slides, landslides, and volcanic activities.</li> </ul>
<b>86. Notice of Force Majeure</b>	<p>86.1 If a party is or will be prevented from performing its substantial obligations under the Contract by Force Majeure, then it shall give notice, within fourteen (14) days after the party became aware, to the other party of the event or circumstances constituting the Force Majeure and shall specify the obligations, the performance of which is or will be prevented.</p> <p>86.2 Notwithstanding any other provision of this Clause, Force Majeure shall not apply to obligations of either party to make payments to the other party under the Contract.</p>
<b>87. Consequences of Force Majeure</b>	<p>87.1 If the Contractor is prevented from performing its substantial obligations under the Contract by Force Majeure of which notice has been given under GCC Sub Clause 86, and suffers delay and/or incurs cost by reason of such Force Majeure, the Contractor shall be entitled subject to GCC Sub Clause 93 to:</p> <ul style="list-style-type: none"> <li>(a) an extension of time for any such delay, if completion is or will be delayed, under GCC Clause 45, and</li> <li>(b) if the event or circumstance is of the kind described sub-paragraphs (a) to (e) of GCC Sub Clause 85.1 occurs in the Country, payment of any such cost, including the costs of rectifying or replacing the Works and Physical services damaged or destructed by Force Majeure, to the extent they are not indemnified through the insurance policy referred to in GCC Clause 37.</li> </ul>

- 87.2 After receiving notice under GCC Sub Clause 86.1, the Project Manager shall proceed to determine these matters under the provisions of the Contract.
- 88. Release from Performance**
- 88.1 Notwithstanding any other provision of this Clause, if any event or circumstance outside the control of the parties (including, but not limited to, Force Majeure) arises which makes it impossible or unlawful for either or both parties to fulfil its or their contractual obligations or which, under the law governing the Contract, entitles the parties to be released from further performance of the Contract, then upon notice by either party to the other party of such event or circumstance:
- (a) the parties shall be discharged from further performance, without prejudice to the rights of either party in respect of any previous breach of the Contract, and
  - (b) the sum payable by the PE to the Contractor shall be the same as would have been payable under GCC Sub Clause 90.3 if the Contract had been terminated under GCC Sub Clause 89.3.

## F. Termination and Settlement of Disputes

- 89. Termination**
- 89.1 **Termination for Default**
- (a) The PE or the Contractor, without prejudice to any other remedy for breach of Contract, by giving twenty eight (28) days written notice of default to the other party, may terminate the Contract in whole or in part if the other party causes a fundamental breach of Contract.
  - (b) Fundamental breaches of the Contract shall include, but shall not be limited to, the following:
    - (i) the Contractor stops work for twenty-eight (28) days when no stoppage of work is shown on the current Programme and the stoppage has not been authorized by the Project Manager;
    - (ii) the Project Manager instructs the Contractor to delay the progress of the Works, and the instruction is not withdrawn within eighty four (84) days;
    - (iii) the Project Manager gives Notice that failure to correct a particular Defect is a fundamental breach of Contract and the Contractor fails to correct it within a reasonable period of time determined by the Project Manager;
    - (iv) the Contractor does not maintain a Security, which is required;
    - (v) the Contractor has delayed the completion of the Works by the number of days for which the maximum amount of Liquidated Damages can be

paid, as specified in GCC Sub Clause 73;

- (vi) the Contractor has subcontracted the whole of the Works or has assigned the Contract without the required agreement and without the approval of the Project Manager;
- (vii) the Contractor, in the judgment of the PE has engaged in corrupt or fraudulent practices, as defined in GCC Sub Clause 39, in competing for or in executing the Contract.
- (viii) A payment certified by the Project Manager is not paid by the PE to the Contractor within eighty-four (84) days of the date of the Project Manager's certificate.

#### **89.2 Termination for Insolvency**

The PE and the Contractor may at any time terminate the Contract by giving twenty eight (28) days written notice to the other party if either of the party becomes bankrupt or otherwise insolvent. In such event, termination will be without compensation to any party, provided that such termination will not prejudice or affect any right of action or remedy that has accrued or will accrue thereafter to the other party.

#### **89.3 Termination for Convenience**

- (a) The PE, by giving twenty eight (28) days written notice sent to the Contractor, may terminate the Contract, in whole or in part, at any time for its convenience. The notice of termination shall specify that termination is for the PE's convenience, the extent to which performance of the Contractor under the Contract is terminated, and the date upon which such termination becomes effective.
- (b) The PE shall not terminate the contract under GCC Sub Clause 89.3 (a) in order to execute the Works itself or to arrange for the Works to be executed by another contractor or to avoid a termination of the Contract by the Contractor as stated under GCC Sub Clause 89.1(a).

#### **89.4** In the event the PE terminates the Contract in whole or in part, the PE shall accept the portion of the Works that are complete and ready for handing over after the Contractor's receipt of notice of termination of the Contract. For the remaining portion of the Works, the PE may elect:

- (a) to have any portion completed by the Contractor at the Contract terms and prices; and /or
- (b) to cancel the remainder and pay to the Contractor an agreed amount for partially completed Works and for materials and parts previously procured by the Contractor, or

- (c) except in the case of termination for convenience as stated under GCC Sub Clause 89.3., engage another Contractor to complete the Works, and in that case the Contractor shall be liable to the PE for any cost that may be incurred in excess of the sum that would have been paid to the Contractor, if the work would have been executed and completed by him or her.
- 89.5 If the Contract is terminated, the Contractor shall stop work immediately, make the Site safe and secure, and leave the Site as soon as is reasonably possible
- 90. Payment upon Termination**
- 90.1 If the Contract is terminated because of a fundamental breach of Contract under GCC Sub Clause 89.1 by the Contractor, the Project Manager shall issue a certificate for the value of the Works done and Plant and Materials ordered less advance payments received up to the date of the issue of the certificate and less the amount from percentage to apply to the contract value of the works not completed, as indicated in the **PCC**. If the total amount due to the PE exceeds any payment due to the Contractor, the difference shall be a debt payable to the PE.
- 90.2 If the Contract is terminated for the PE's convenience or because of a fundamental breach of Contract by the PE, the Project Manager shall issue a payment certificate for the value of the work done, Materials ordered, the reasonable cost of removal of Equipment, repatriation of the Contractor's foreign personnel employed solely on the Works and recruited specifically for the Works, and the Contractor's costs of protecting and securing the Works, and less advance payments received up to the date of the certificate.
- 90.3 If the Contract is terminated for reasons of Force Majeure, the Project Manager shall determine the value of the work done and issue a Payment Certificate which shall include:
- (a) the amounts payable for any work carried out for which unit rates or prices are stated in the Contract;
  - (b) the cost of Plant and Materials ordered for the Works which have been delivered to the Contractor, or of which the Contractor is liable to accept delivery: this Plant and Materials shall become the property of (and be at the risk of) the PE when paid for by the PE, and the Contractor shall place the same at the PE's disposal;
  - (c) other costs or liabilities which in the circumstances were reasonably and necessarily incurred by the Contractor in the expectation of completing the Works;
  - (d) the cost of removal of Temporary Works and Contractor's Equipment from the Site; and
  - (e) the cost of repatriation of the Contractor's staff and labour employed wholly in connection with the Works at the date of termination.

<b>91. Property</b>	91.1 All Materials on the Site, Plant, Equipment, Temporary Works, and Works shall be deemed to be the property of the PE if the Contract is terminated because of the Contractor's default stated under GCC Sub Clause 89.1.
<b>92. Frustration</b>	92.1 If the Contract is frustrated by the occurrence of a situation of Force Majeure as defined in GCC Sub Clause 85, the Project Manager shall certify that the Contract has been frustrated. The Contractor shall make the Site safe and stop work as quickly as possible after receiving this certificate and shall be paid for all works carried out before receiving it and for any work carried out afterwards to which a commitment was made.
<b>G. Claims, Disputes and Arbitration</b>	
<b>93. Contractor's Claims</b>	<p>93.1 If the Contractor considers himself to be entitled to any extension of the Completion Time and/or any additional payment, under any Clause of these Conditions or otherwise in connection with the Contract, the Contractor shall give notice to the PE, describing the event or circumstance giving rise to the claim. The notice shall be given as soon as practicable, and not later than twenty eight (28) days after the Contractor became aware, or should have become aware, of the event or circumstance.</p> <p>93.2 If the Contractor fails to give notice of a claim within such period of twenty eight (28) days, the Intended Completion Date shall not be extended, the Contractor shall not be entitled to additional payment, and the PE shall be discharged from all liability in connection with the claim.</p> <p>93.3 Within forty two (42) days after the Contractor became aware or should have become aware of the event or circumstance giving rise to the claim, or within such other period as may be proposed by the Contractor and approved by the Project Manager, the Contractor shall send to the Project Manager a fully detailed claim which includes full supporting particulars of the basis of the claim and of the extension of time and/or additional payment claimed, for settlement.</p>
<b>94. Settlement of Disputes</b>	<p>94.1 <b>Amicable settlement</b> The PE and the Contractor shall use their best efforts to settle amicably all possible disputes arising out of or in connection with this Contract or its interpretation.</p> <p>94.2 <b>Adjudication</b></p> <ul style="list-style-type: none"> <li>(a) If the Contractor believes that a decision taken by the Project Manager was either outside the authority given to the Project Manager by the Contract or that the decision was wrongly taken, the decision shall be referred to the Adjudicator within fourteen (14) days of notification of the Project Manager's decision in writing.</li> <li>(b) The Adjudicator named in the PCC is jointly appointed</li> </ul>

by the parties. In case of disagreement between the parties, the Appointing Authority designated in the **PCC** shall appoint the Adjudicator within fourteen (14) days of receipt of a request from either party.

- (c) The Adjudicator shall give its decision in writing to both parties within twenty-eight (28) days of a dispute being referred to it.
- (d) The Contractor shall make all payments (fees and reimbursable expenses) to the Adjudicator, and the PE shall reimburse half of these fees through the regular progress payments.
- (e) Should the Adjudicator resign or die, or should the PE and the Contractor agree that the Adjudicator is not functioning in accordance with the provisions of the Contract; a new Adjudicator will be jointly appointed by the PE and the Contractor. In case of disagreement between the PE and the Contractor the Adjudicator shall be designated by the Appointing Authority within fourteen (14) days of receipt of a request from either party as stated under GCC Sub Clause 94.2 (b)

#### 94.3 Arbitration

- (a) If the parties are unable to reach a settlement as per GCC Clauses 94.1 and 94.2 within twenty-eight (28) days of the first written correspondence on the matter of disagreement, then either party may give notice to the other party of its intention to commence arbitration in accordance with GCC Sub Clause 94.3(b).
- (b) The arbitration shall be conducted in accordance with the Arbitration Act (**Act No 1 of 2001**) of Bangladesh as at present in force and in the place shown in the **PCC**.

## Section 4. Particular Conditions of Contract

*Instructions for completing the Particular Conditions of Contract are provided in italics in parenthesis for the relevant GCC Clauses.*

<b>GCC Clause</b>	<b>Amendments of, and Supplements to, Clauses in the General Conditions of Contract</b>
<b>GCC 1.1(j)</b>	The Contractor is <i>[Name, address, and name of authorized representative]</i>
<b>GCC 1.1(ff)</b>	The PE is <i>[Name, address, and name of authorized representative]</i>
<b>GCC 1.1(fff)</b>	The Development Partner is [Name of the DP]
<b>GCC 1.1(gg)</b>	The Project Manager is <i>[Name, address, and name of authorized representative]</i>
<b>GCC 1.1 (bb)</b>	The original Contract price is <i>[insert the amount in the NOA]</i>
<b>GCC 1.1(y)</b>	The Intended Completion Date for the whole of the Works shall be <i>[insert date]</i> <i>[to be calculated from the Commencement Date]</i>
<b>GCC 1.1(kk)</b>	The Site is located at <i>[location]</i> and is defined in drawings No: <i>[insert numbers]</i>
<b>GCC 1.1(nn)</b>	The Start Date shall be <i>[insert date]</i>  <i>[it is the last date when the Contractor shall commence execution of the Works under the Contract reasonably immediately after the Commencement Date; refer to GCC Clause 40]</i>
<b>GCC 1.1(rr)</b>	The Works consist of  <i>[state brief summary, including relationship to other Contracts under the Project]</i>
<b>GCC 1.1 (tt)</b>	
<b>GCC 2.5</b>	The Sectional Completion Dates are:  <i>[state part of the works and the corresponding dates, if applicable]</i>
<b>GCC 3.1</b>	The PE's address for the purpose of communications under this contract is : Contact person: Address:

	<p>Tel:</p> <p>Fax:</p> <p>e-mail address:</p> <p>The Contractor's address for the purpose of communications under this contract is :</p> <p>Contact person:</p> <p>Address:</p> <p>Tel:</p> <p>Fax:</p> <p>e-mail address:</p>
<b>GCC 6.1 (j)</b>	<p>Other documents forming part of the Contract are;</p> <p><i>[list other documents viz. Schedule of other contractors, Schedule of Key Personnel, Site Investigation Reports, relevant correspondences prior to signing of the Contract agreement etc.]</i></p>
<b>GCC 9.1</b>	<p>A Contractor or a Subcontractor that is a national of, or registered in, the following countries are not eligible:</p> <p><i>[state countries, if applicable]</i></p>
<b>GCC 9.2</b>	<p>Materials, Equipments Plants and supplies shall not have their origin in the following countries:</p> <p><i>[state countries, if applicable]</i></p>
<b>GCC 13.1</b>	<p>Possession of the Site or part(s) of the Site, to the Contractor shall be given on the following date(s);</p> <p><i>[state date or dates of possession of site]</i></p>
<b>GCC 19.1</b>	<p>Following Key Personnel to carry out the functions stated in the Schedule shall be employed by the Contractor;</p> <p><i>[insert name(s)]</i></p>
<b>GCC 21.1</b>	<p>Nominated Subcontractor(s) named below;</p> <p><i>[insert name(s)]</i></p> <p>shall be entitled to execute the following specific components of the Works</p> <p><i>[state none ,if not applicable]</i></p>

<b>GCC 23.1</b>	The Contractual matters between the PE and the Contractor shall be decided by  [state only if other than the Project Manager]
<b>GCC 37.1</b>	<p>The minimum insurance cover shall be:</p> <p>(a) The maximum deductible for insurance of the Works and of Plant and Materials is Tk [state amount]  <i>[the Contractor shall provide this amount at the time of Contract signing].</i></p> <p>(b) The minimum cover for insurance of the Works and of Plant and Materials in respect of the Contractor's faulty design is Tk [state amount].  <i>[the amount could be 110% of the value of the works, plant and materials that may be lost in a worst case scenario].</i></p> <p>(c) The maximum deductible for insurance of Equipment is Tk [state amount].  <i>[the Contractor shall provide this amount at the time of Contract signing].</i></p> <p>(d) The minimum cover for loss or damage to Equipment is Tk [state amount].  <i>[the amount could be 110% of the replacement value of the equipment]</i></p> <p>(e) The maximum deductible for insurance of other property is Tk [state amount].  <i>[the Contractor shall state this amount at the time of Contract signing].</i></p> <p>(f) The minimum cover for insurance of other property is Tk [state amount].  <i>[it is the responsibility of the Contractor to obtain adequate insurance cover for such risks – recommended value 10% of contract price].</i></p> <p>(g) The minimum cover for personal injury or death insurance:  (i) for the Contractor's employees is as per the law and common practice in Bangladesh.  (ii) and for third parties is as per the law and common practice in Bangladesh.</p>
<b>GCC 40.1</b>	Commencement Date of Works shall be as follows;  [insert different commencement dates for different parts of the Works, if deemed appropriate]
<b>GCC 42.1</b>	The Contractor shall submit a Programme for the Works within [insert days] days of signing the Contract.  [usually fifteen (15) days]

<b>GCC 42.2</b>	The period between Programme updates is <i>[state interval]</i>  <i>[usually bi-monthly or quarterly depending on the nature of the Works]</i>
<b>GCC 42.3</b>	The amount to be withheld for late submission of an updated Programme is <i>[state amount]</i> .
<b>GCC 57.1</b>	The Defects Liability Period is <i>[state months]</i>  <i>[usually Defect Liability Period is twelve (12) months to cover at least one complete monsoon season].</i>
<b>GCC 66.3</b>	<p>The particulars of the Bank Account nominated are as follows :</p> <p>Title of the Account : [insert title to whom the Contract awarded]  Name of the Bank : [insert name with code, if any]  Name of the Branch : [insert branch name with code ,if any]  Account Number : [insert number]  Address : [insert location with district]  Tel :  Fax :  e-mail address :</p> <p><i>[information furnished by the Contractor shall be substantiated by the concerned Bank and authenticated by the PE]</i></p>
<b>GCC 69.1(m)</b>	The following additional events shall also be the Compensation Events:  <i>[list events or state none ]</i>

GCC 71.1	<p>The Contract is not subject to price adjustment.</p> <p>OR</p> <p>The Contract is subject to price adjustment, the weightings or coefficients for adjustment are:</p> <p><i>[Price Adjustment Formulae to be applicable if stated under ITT Sub Clause 27.10 shall be specified here]</i></p> <p><b><u>Example:</u></b></p> <p><math>P = A + a(Lm/Lo) + b(Blm/Blo) + c(CEm/CEo) + d(RSm/RSo) + e(STm/STo) + f(BRm/BRo) + g(MIm/MIo) + h(FUm/FUo) + \text{etc}</math></p> <p>where;</p> <p>L= Labor, Bl=Bitumen, CE=Cement, RS=Reinforcing Steel, ST=Stone, BR=Bricks, MI=Miscellaneous, FU= Fuel ]</p> <p>Weighting or Coefficient A equals between 0.10 and 0.15 and, B (a+b+c+d+e+f+g+h+etc) equals between 0.90 and 0.85.</p> <p>[insert figure] non-adjustable component (<b>coefficient A</b>)</p> <p>[insert figure] adjustable component (<b>coefficient B</b>)</p> <p><i>[The sum of A+B shall equal ONE (1). It is usual to have value of A between 0.10 and 0.15 and that of B between 0.90 and 0.85. Breakdown of B shall be provided in Appendix to the Tender.]</i></p> <p><i>[delete as appropriate]</i></p> <p><i>[price adjustment clauses are usually only permitted for Works Contracts, execution of which will take more than eighteen (18) months from Start Date to Completion Date. The PE must consider each Contract on its individual merit; approval of HOPE required for Contracts of less than eighteen (18) months]</i></p>
GCC 72.1	<p>The proportion of payments to be retained is [insert percent] percent.</p> <p><i>[state "none" if not applicable. If applicable then the proportion of Retention Money shall be equal to the percentage-shortfall of ten (10) percent of Performance Security determined at the time of signing the Contract. Again in case of unbalanced Tender or because of front loading, provision for Retention Money shall not be applicable]</i></p>

GCC 73.1	<p>The amount of Liquidated Damages or in other words Delay Damages for the uncompleted Works or any part thereof is [insert percentage] percent of its Contract price per day of delay.</p> <p><i>[usually the percent-rate of liquidated damages is set at between 0.05 and 0.10 of ONE (1) percent of its Contract price per day of delay]</i></p> <p><b><u>Guide to application of GCC Sub Clause 76.1 above</u></b></p> <p><i>[ Liquidated damages is equivalent to an amount to be determined in accordance with the following formula</i></p> $T_{LD} = V_{UW} \times P \times n$ <p><b>Where;</b></p> <p><b>T<sub>LD</sub></b> = Total amount of Liquidated Damages</p> <p><b>V<sub>UW</sub></b> = Value of Uncompleted Works (i.e. works not having been completed as of the expiry of the Intended Completion Date plus the works completed after the expiry of the Intended Completion Date). <b>V<sub>UW</sub></b> shall be calculated by deducting the value of the completed works under the Contract from the total Contract price</p> <p><b>P</b> = Percent-rate at which the Liquidated Damages shall be imposed for every day of delay</p> <p><b>n</b> = No of days of delay for completion of works under the Contract]</p>
GCC 73.1	<p>The maximum amount of Liquidated Damages for the uncompleted Works or any part thereof is [insert percentage] percent of the final Contract price of the whole of the Works.</p> <p><i>[ usually the total amount of liquidated damages shall not exceed ten (10) percent of the final Contract price for the whole of the Works]</i></p>
GCC 74.1	<p>The Bonus for the whole of the Works is [insert percentage] percent of the final Contract price per day.</p> <p>The maximum amount of Bonus for the whole of the Works is [insert percentage] percent of the final Contract price.</p> <p><i>[if early completion would provide benefits to the PE, this clause should remain, otherwise state "Not Applicable". The bonus is usually numerically equal to the Liquidated Damages]</i></p>
GCC 75.1	<p>The Advance Payment shall be Tk [insert amount] and shall be paid to the Contractor not later than [insert date].</p> <p><i>[for 100 percent GoB funded procurement, advance payments are not recommended unless otherwise specifically decided by the Government. An advance payment, if admissible, shall be made for mobilisation, considering the nature of the works. The recommended maximum advance payment is ten (10) percent of the original Contract price against an unconditional Bank Guarantee (<b>Form e-PW3-10.</b>) On the contrary, advance payments may be applicable for procurements under aided projects]</i></p>

<b>GCC 77.2</b>	The percentage for adjustment of Provisional Sums is  _____ % ( _____ percent) <i>[state none, if not applicable. Usually covers the VAT, profit and overhead costs]</i>
<b>GCC 84.1</b>	The date by which “ <b>as-built</b> ” drawings are required is <i>[insert date]</i>  The date by which operating and maintenance manuals are required is <i>[insert date]</i>
<b>GCC 84.2</b>	The amount to be withheld for failing to produce “ <b>as-built</b> ” drawings and/or operating and maintenance manuals by the date required is Tk <i>[insert amount]</i>  <i>[usually a very nominal amount]</i>
<b>GCC 90.1</b>	The percentage to apply to the contract value of the works not completed, representing the PE’s additional cost for completing the uncompleted Works, is <i>[state percentage]</i> percent.  <i>[ usually between ten (10) to twenty (20) percent depending on the nature of the Works]</i>
<b>GCC 94.2 (b)</b>	The Adjudicator jointly appointed by the parties is:  Name: Address: Tel No: Fax No: e-mail address:
<b>GCC 94.2(b)</b>	In case of disagreement between the parties, the Appointing Authority for the Adjudicator is the President of the Institution of Project Managers, Bangladesh.
<b>GCC 94.3 (b)</b>	The arbitration shall be conducted in the place mentioned below; <i>[state name of place with location and district ]</i>

## Appendix to the Tender

[In Tables below, the PE shall indicate the source and base values with dates of Indexes, unless otherwise instructed to be quoted by the Tenderer, for the different Cost Components and mention its Weightings or Coefficients]

**Table 1.1: Price Adjustment Data**  
[ ITT Sub Clause 26.4: To be provided by the PE]

Index Descriptions	Base Value	Sources of Index

**Note:**

1. The sources of Indexes and its values with dates shall be Bangladesh Bureau of Statistics (BBS) unless otherwise mentioned by the PE or instructed to be quoted by the Tenderer.
2. The PE may require the Tenderer to justify its proposed Indexes, if quoted by the Tenderer.
3. The Base Value of the Indexes shall be those prevailing twenty eight (28) days prior to the deadline for submission of the Tenders.

**Table 1.2: Price Adjustment Data**  
**[ITT Sub Clause 26.5 and GCC Sub Clause 71.1: To be provided by the PE]**

Item Group	Bill No. if applicable	Index Descriptions	Coefficients or Weightings for non-adjustable Cost Component	Coefficients or Weightings for adjustable Cost Components										Total
				a	b	c	d	e	f	g	h	i	j	

**Note:**

The Weightings or Coefficients of the Cost Components shall be mentioned by the PE based on the proportion of components involved in the work items caused to be impacted by rise and fall in its prices.

## Section 5. e-Tender and e-Contract Forms

Form	Title
	<b>Tender Forms</b>
e-PW3 – 1	Tender Submission Letter
e-PW3 – 2	Tenderer / JVCA Partners( <i>if applicable</i> ) Information
e-PW3 – 3	Subcontractor Information ( <i>if applicable</i> )
e-PW3 – 4	Personnel Information
e-PW3 – 5	Bank Guarantee for Tender Security ( <i>when this option is chosen</i> )
	<b>Contract Forms</b>
e-PW3 – 6	Notification of Award
e-PW3 – 7	Contract Agreement
e-PW3 – 8	Bank Guarantee for Performance Security ( <i>when this option is chosen</i> )
e-PW3 – 9	Bank Guarantee for Advance Payment ( <i>if applicable</i> )
e-PW3 – 10	Bank Guarantee for Retention Money Security ( <i>when this option is chosen</i> )

Forms **e-PW3 -1** to **e-PW3 -5** comprises part of the Tender Format and should be completed as stated in ITT Clauses 24.

Forms **e-PW3 -7** to **e-PW3 -11** comprises part of the Contract as stated in GCC Clause 6.

## e-Tender Submission Letter (Form e-PW3-1)

We, the undersigned, offer to execute Works and Physical services in conformity with the Conditions of Contract and associated Contract documents and e-TD.

In signing this letter in the form of e-Signature/Digital Signature (**by clicking on a Final Submission button, Tenderer is signing this e-tender submission document**), and in submission of our e-Tender, we also confirm that:

- a. Our Tender shall be valid for the period stated in the Tender Data Sheet and it shall remain binding upon us and may be accepted at any time before the expiration of that period.
- b. If our Tender is accepted, we commit to furnishing a Performance Security in the amount stated in the Tender Data Sheet in the form stated in Tender Data Sheet and valid for a period of 28 days beyond the date of completion of our performance obligations.
- c. We have examined and have no reservations to the e-TD including Addendum issued in accordance with the instructions to Tenderer.
- .
- d. We, including any subcontractor or suppliers for any part of the contract have or will have nationalities from eligible countries, in accordance with ITT 5.1.
- e. We, our affiliates or subsidiaries, including any of our subcontractors or suppliers for any part of the contract, have not been declared ineligible by the Government of Bangladesh or the Development Partner, under the laws of Bangladesh or official regulations or by an act of compliance with a decision of the United Nations Security Council on charges of engaging in corrupt, fraudulent, collusive, coercive or obstructive practices in accordance with ITT sub-clause 5.7
- f. Furthermore, we are aware of ITT concerning such practices and pledge not to indulge in such practices in competing for or in executing the Contract.
- g. We, confirm that we do not have a record of poor performance as stated in ITT sub-clause 5.8 , and that we do not have, or have had, any litigation against us, other than that stated in the Tenderer Information (e-PW3-2).
- h. We, confirm that we do not have a record of insolvency, receivership, bankrupt or being wound up, our business activities were not been suspended, and it was not been the subject of legal proceedings in accordance with ITT sub-clause 5.9.
- i. We, confirm that we have fulfilled our obligations to pay taxes and social security contributions applicable under the relevant national laws and regulations of Bangladesh in accordance with ITT sub-clause 5.10.
- j. We, including any subcontractor or suppliers for any part of the contract, do not have any conflict of interest in accordance with ITT sub-clause 5.6.
- k. We understand that your Notification of Award through e-GP system shall become a binding Contract between us, until a formal Contract is prepared and executed.
- l. We understand that you reserve the right to accept or reject any Tender, to cancel the Tender proceedings, or to reject all Tenders, without incurring any liability to Tenderers.
- m. The total price of our Tender is mentioned in the Grand summary of BOQ as auto generated by the e-GP system.

**Attachment 1:** scanned copy of written confirmation authorising the above signatory to submit the Tender, in accordance with ITT sub-clause 39.4.

## Tenderer Information Form (e-PW3-2)

Tenderer / JVCA's profile information will come from the e-GP System.

### A. Tenderer / JVCA Partners (in case of JVCA)

Note: Information of Tenderer or each JVCA Partner (in case of JVCA) should be filled up

<b>1. Name of the Tenderer / JVCA Partner:</b>			
<b>2. Registered e-mail ID of the Tenderer / JVCA Partner:</b>			
<b>3. Litigation History:</b> Litigation history shall comply with the requirement as specified in ITT 17.1(c)			
A. Arbitration Awards made against			
Year	Matter in dispute	Value of Award	Value of Claim
B. Arbitration Awards pending			
Year	Matter in dispute	Value of Claim	
4. Qualification Information of the Tenderer [ITT Clause 31]			
4.1	General Experience in Construction Works of Tenderer: [State years of experience]		
4.2	Specific Experience in Construction Works of Tenderer Completed Contracts of similar nature, complexity and methods/construction technology		
Contract No	[insert reference no] of [insert year]		
Name of Contract	[insert name]		
Role in Contract <i>[tick relevant box]</i>	Prime Contractor	Subcontractor	Management Contractor
Award date	[insert date]		
Completion date	[insert date]		
Total Contract Value	[insert amount]		

<p>Procuring Entity's Name Address Tel / Fax <u>e-mail</u></p> <p>Brief description with justifications of the similarity compared to the Procuring Entity's requirements</p>		<p>[state justification in support of its similarity compared to the proposed works]</p>																		
4.3	<p>Average annual construction turnover [ITT Sub Clause 15.1(a)]  <i>[Payment received for each year of works under public sector in progress or completed, using rate of exchange at the end of the period reported]</i></p> <table border="1"> <thead> <tr> <th>Year</th> <th>Currency</th> <th colspan="2">Amount (Taka or Equivalent Taka)</th> </tr> </thead> <tbody> <tr><td></td><td></td><td colspan="2"></td></tr> <tr><td></td><td></td><td colspan="2"></td></tr> <tr><td></td><td></td><td colspan="2"></td></tr> </tbody> </table>				Year	Currency	Amount (Taka or Equivalent Taka)													
	Year	Currency	Amount (Taka or Equivalent Taka)																	
4.4	<p>Liquid assets available to meet the construction cash flow [ITT Sub Clause 16.1(b)]</p> <table border="1"> <thead> <tr> <th>No</th> <th>Source of Financing</th> <th>Amount Available</th> </tr> </thead> <tbody> <tr><td></td><td></td><td></td></tr> <tr><td></td><td></td><td></td></tr> <tr><td></td><td></td><td></td></tr> </tbody> </table>				No	Source of Financing	Amount Available													
No	Source of Financing	Amount Available																		
<p>In order to confirm the above statements the Tenderer shall submit , as applicable, the documents mentioned in ITT Sub Clause 31.1 (d)</p>																				
4.5	<p>Contact Details [ITT Sub Clause 31.1 (g)]</p> <p>Name, address, and other contact details of Tenderer Bankers and other Procuring Entity(s) that may provide references, if contacted by this PE</p>																			
4.6	<p>Qualifications and experience of key technical and administrative personnel proposed for Contract administration and management [ITT Sub Clause 31.1(e)]</p> <table border="1"> <thead> <tr> <th>Name</th> <th>Position</th> <th>Years of General Experience</th> <th>Years of Specific Experience</th> </tr> </thead> <tbody> <tr><td></td><td></td><td></td><td></td></tr> <tr><td></td><td></td><td></td><td></td></tr> </tbody> </table>				Name	Position	Years of General Experience	Years of Specific Experience												
Name	Position	Years of General Experience	Years of Specific Experience																	
<p>[Tenderer to complete details of as many personnel as are applicable. Each personnel listed above should complete the Personnel Information (Form e-PW3-4)]</p>																				

4.7	Major Construction Equipments proposed to carry out the Contract [ITT Sub Clause 31.1(f)]		
	Item of Equipment	Condition (new, good, average, poor)	Owned, leased or to be purchased (state owner, lessor or seller)

*[Tenderer to list details of each item of major construction equipment, as applicable]*

5. Key Activity(ies) for which it is intended to be joint ventured (in case of JVCA) [ITT Sub Clause 19.2]

	Elements of Activity	Brief description of Activity

## **Subcontractor Information (Form e-PW3-3)**

1. Name of the Subcontractor:		
2. Registered e-mail ID of the Subcontractor:		
3. Key Activity(ies) for which it is intended to be Subcontracted [ITT Sub Clause 20.1]		
3.1	Elements of Activity	Brief description of Activity

## **Personnel Information (Form e-PW3-4)**

*[This Form should be completed for each person proposed by the Tenderer on Form e-PW3-2 , where applicable]*

<b>A. Proposed Position</b> (tick the relevant box)		
<input type="checkbox"/> Construction Project Manager	<input type="checkbox"/> Prime Candidate	<input type="checkbox"/> Alternative Candidate
<input type="checkbox"/> Key Personnel	<input type="checkbox"/> Prime Candidate	<input type="checkbox"/> Alternative Candidate
<b>B. Personal Data</b>		
Name		
Date of Birth		
Years overall experience		
National ID Number		
Years of employment with the Tenderer		
Professional Qualifications: 1. 2. 3. 4.		
<b>C. Present Employment</b> [to be completed only if not employed by the Tenderer]		
Name of Procuring Entity (working under):		
Address of Procuring Entity:		
Present Job Title:		
Years with present Procuring Entity:		
Tel No:	Fax No:	e-mail address:
Contact [manager/personnel officer]:		

<b>D. Professional Experience</b>						
Summarise professional experience over the last twenty years, in reverse chronological order. Indicate particular technical and managerial experience relevant to the project.						
	From	To	Company //	Project	Position	Relevant technical and management experience.
1						
2						
3						
4						
5						

## **Bank Guarantee for Tender Security (Form e-PW3-5)**

*[This is the format for the Tender Security to be issued by a scheduled Bank of Bangladesh in accordance with ITT Clause 35 ]*

Invitation for Tender No: Date:

Tender Package No:

To:

**[Name and address of the Procuring Entity]**

### **TENDER GUARANTEE No:**

We have been informed that *[name of Tenderer]* (hereinafter called "the Tenderer") intends to submit to you its Tender dated *[date of Tender]* (hereinafter called "the Tender") for the execution of the Works of *[description of works]* under the above Invitation for Tenders (hereinafter called "the IFT").

Furthermore, we understand that, according to your conditions, the Tender must be supported by a Bank Guarantee for Tender Security.

At the request of the Tenderer, we *[name of bank]* hereby irrevocably undertake to pay you, without cavil or argument, any sum or sums not exceeding in total an amount of Tk *[insert amount in figures and words]* upon receipt by us of your first written demand accompanied by a written statement that the Tenderer is in breach of its obligation(s) under the Tender conditions, because the Tenderer:

- a. has withdrawn its Tender after opening of Tenders but within the validity of the Tender Security; or
- b. refused to accept the Notification of Award (NOA) within the period as stated under ITT; or
- c. failed to furnish Performance Security within the period stipulated in the NOA; or
- d. refused to sign the Contract Agreement by the time specified in the NOA; or
- e. did not accept the correction of the Tender price following the correction of the arithmetic errors as stated under ITT.

This guarantee will expire

- (a) if the Tenderer is the successful Tenderer, upon our receipt of a copy of the Contract Agreement signed by the Tenderer or a copy of the Performance Security issued to you in accordance with the ITT; or
- (b) if the Tenderer is not the successful Tenderer, twenty eight (28) days after the expiration of the Tenderer's Tender validity period, being *[date of expiration of the Tender validity plus twenty eight (28) days ]*.

Consequently, we must receive at the above-mentioned office any demand for payment under this guarantee on or before that date.

Signature

Signature

## **Notification of Award (Form e-PW3-6)**

Contract No:

Date:

To:

*[Name of Contractor]*

This is to notify you that your Tender dated *[insert date]* for the execution of the Works for *[name of project/Contract]* for the Contract Price of Tk *[state amount in figures and in words]*, as corrected and modified in accordance with the Instructions to Tenderers, has been approved by *[name of Procuring Entity]*.

You are thus requested to take following actions:

- i. accept in writing the Notification of Award within seven (7) working days of its issuance pursuant to ITT Sub Clause 57.3
- ii. furnish a Performance Security in the form as specified and in the amount of Tk *[state amount in figures and words]*, within fourteen (14) days of acceptance of this Notification of Award but not later than *(specify date)*, in accordance with ITT Clause 59.2.
- iii. sign the Contract within twenty eight (28) days of issuance of this Notification of Award but not later than *(specify date)*, in accordance with ITT Sub Clause 61.2.

You may proceed with the execution of the Works only upon completion of the above tasks. You may also please note that this Notification of Award shall constitute the formation of this Contract which shall become binding upon you.

We attach the draft Contract and all other documents for your perusal and signature.

## Contract Agreement (Form e-PW3-7)

THIS AGREEMENT made the [day] day of [month] [year] between [name and address of Procuring Entity] (hereinafter called "the Procuring Entity") of the one part and [name and address of Contractor] (hereinafter called "the Contractor") of the other part:

WHEREAS the Procuring Entity invited Tenders for certain works, viz, [brief description of works] and has accepted a Tender by the Contractor for the execution of those works in the sum of Taka [Contract price in figures and in words] (hereinafter called "the Contract Price").

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the General Conditions of Contract hereafter referred to.
2. The documents forming the Contract shall be interpreted in the following order of priority:
  - (a) the signed Contract Agreement
  - (b) the Notification of Award
  - (c) the completed Tender and the Appendix to the Tender
  - (d) the Particular Conditions of Contract
  - (e) the General Conditions of Contract
  - (f) the Technical Specifications
  - (g) the General Specifications
  - (h) the Drawings
  - (i) the priced Bill of Quantities and the Schedules
  - (j) any other document listed in the PCC forming part of the Contract.
3. In consideration of the payments to be made by the Procuring Entity to the Contractor as hereinafter mentioned, the Contractor hereby covenants with the Procuring Entity to execute and complete the works and to remedy any defects therein in conformity in all respects with the provisions of the Contract.
4. PE hereby covenants to pay the Contractor in consideration of the execution and completion of the works and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with the laws of Bangladesh on the day, month and year first written above.

	For the Procuring Entity	For the Contractor
Signature		
Name		
National ID No.		
Title		
In the presence of Name		
Address		



## **Bank Guarantee for Performance Security (Form e-PW3-8)**

*[This is the format for the Performance Security to be issued by a scheduled bank of Bangladesh in accordance with ITT Clause 59]*

Contract No: [insert reference number]

Date: [insert date]

To:

[ insert Name and address of Procuring Entity]

### **PERFORMANCE GUARANTEE NO:**

We have been informed that *[name of Contractor]* (hereinafter called "the Contractor") has undertaken, pursuant to Contract No *[insert reference number of Contract]* dated *[insert date of Contract]* (hereinafter called "the Contract"), the execution of works *[description of works]* under the Contract.

Furthermore, we understand that, according to your conditions, the Contract must be supported by a Bank Guarantee for Performance Security.

At the request of the Contractor, we *[name of bank]* hereby irrevocably undertake to pay you, without cavil or argument, any sum or sums not exceeding in total an amount of Tk *[insert amount in figures and in words]* upon receipt by us of your first written demand accompanied by a written statement that the Contractor is in breach of its obligation(s) under the Contract conditions, without you needing to prove or show grounds or reasons for your demand of the sum specified therein.

This guarantee is valid until *[date of validity of guarantee]*, consequently, we must receive at the above-mentioned office any demand for payment under this guarantee on or before that date.

Signature

Signature

## **Bank Guarantee for Advance Payment (Form e-PW3-9)**

*[This is the format for the Advance Payment Guarantee to be issued by a scheduled bank of Bangladesh in accordance with GCC Clause 75]*

Contract No: [insert reference number]      Date: [insert date]

To:

[insert Name and address of the Procuring Entity]

### **ADVANCE PAYMENT GUARANTEE No:**

We have been informed that *[name of Contractor]* (hereinafter called "the Contractor") has undertaken, pursuant to Contract No *[insert reference number of Contract]* dated *[insert date of Contract]* (hereinafter called "the Contract"), the execution of works *[description of works]* under the Contract.

Furthermore, we understand that, according to your Conditions of Contract under GCC Clause 75, the Advance Payment on Contract must be supported by a Bank Guarantee.

At the request of the Contractor, we *[insert name of bank]* hereby irrevocably undertake to pay you, without cavil or argument, any sum or sums not exceeding in total an amount of Tk *[insert amount in figures and in words]* upon receipt by us of your first written demand accompanied by a written statement that the Contractor is in breach of its obligation(s) under the Contract conditions, without you needing to prove or show grounds or reasons for your demand of the sum specified therein.

We further agree that no change, addition or other modification of the terms of the Contract to be performed, or of any of the Contract documents which may be made between the Procuring Entity and the Contractor, shall in any way release us from any liability under this guarantee, and we hereby waive notice of any such change, addition or modification.

This guarantee is valid until *[insert date of validity of guarantee]*, consequently, we must receive at the above-mentioned office any demand for payment under this guarantee on or before that date.

Signature

Signature

## **Bank Guarantee for Retention Money Security (Form e-PW3-10)**

*[This is the format for the Retention Money Guarantee to be issued by a scheduled bank of Bangladesh in accordance with GCC Sub Clause 72.3]*

### **Demand Guarantee**

[Bank's Name, and Address of Issuing Branch or Office]

**Beneficiary:** [insert Name and Address of the Procuring Entity]

**Date:** [insert date]

**RETENTION MONEY GUARANTEE No.: [insert number]**

We have been informed that [insert name of Contractor] (hereinafter called "the Contractor") has entered into Contract Number [insert reference number of the Contract] dated [insert date] with you, for the execution of [insert name of Contract and brief description of Works] (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, when the Taking-Over Certificate has been issued for the Works and the first half of the Retention Money has been certified for payment, payment of Tk. [insert the amount of the second half of the Retention Money] which becomes due after the Defects Liability Period has passed and certified in the form of Defects Correction Certificate, is to be made against a Retention Money Guarantee.

At the request of the Contractor, we [insert name of Bank] hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of Tk. [insert amount in figures] (Taka [insert amount in words]) upon receipt by us of your first demand in writing accompanied by a written statement stating that the Contractor is in breach of its obligation under the Contract because the Contractor failed to properly correct the defects duly notified in respect of the Works.

It is a condition for any claim and payment under this guarantee to be made that the payment of the second half of the Retention Money referred to above must have been received by the Contractor on its account number[insert A/C no] at [name and address of Bank].

This guarantee is valid until [insert the date of validity of Guarantee that being twenty eight (28) days beyond the Defects Liability Period]. Consequently, we must receive at the above-mentioned office any demand for payment under this guarantee on or before that date.

Signature

Signature

## **Section 6. Bill of Quantities**

### **Guidance Notes on the Bill of Quantities**

#### **Objectives**

The objectives of the Bill of Quantities (BOQ) are;

- (a) to provide sufficient information on the quantities of Works to be performed to enable Tenders to be prepared efficiently and accurately; and
- (b) when a Contract has been entered into, to provide a priced BOQ for use in the periodic valuation of Works executed.

In order to attain these objectives, the items in the Bill of Quantities should be grouped into sections to distinguish between those parts of the Works that by nature, location, access, timing, or any other special characteristics may give rise to different methods of construction, phasing of the Works, or considerations of cost. General items common to all parts of the Works may be grouped as a separate section in the Bill of Quantities. Consistent with these requirements, the layout and content of the BOQ should be as simple and brief as possible. Quantities should be computed net from the Drawings, unless directed otherwise in the Contract, and no allowance should be made for bulking, shrinkage, or waste. Quantities should be rounded up or down where appropriate and spurious accuracy should be avoided.

The quantities given in the Bill of Quantities are estimated and provisional, and are given to provide a common basis for Tendering. The basis of payment will be the actual quantities of work ordered and carried out, as measured by the Contractor and verified by the Project Manager and valued at the rates or prices quoted in the priced Bill of Quantities, where applicable, and otherwise at such prices as the Project Manager may fix within the terms and conditions of the Contract.

The method of measurements of completed works for payment shall be based on metric system unless otherwise unavoidable.

A sample format has been suggested.

### **Daywork Schedule**

A Daywork Schedule is commonly used in contracts where the likely incidence of unforeseen work cannot be covered by definitive descriptions and approximate quantities in the Bill of Quantities. A Daywork Schedule should therefore be included only if the probability of unforeseen work, outside the items included in the BOQ, is high. To facilitate checking by the Procuring Entity of the realism of rates quoted by the Tenderers, the Daywork Schedule should normally comprise the following:

- (a) a list of the various classes of labour, materials, and construction plant for which basic Daywork prices are to be quoted by the Tenderer, together with a statement of the conditions under which the Contractor will be paid for work executed on a Daywork basis.
- (b) quantities for each item of Daywork, to be priced or quoted by each Tenderer at Daywork rates as Tender. The rate to be quoted by the Tenderer against each basic Daywork item should include the Contractor's profit, overheads, supervision, taxes, and all other charges.

If a Day work Schedule is to be included **at all** in the e-TD, it shall include nominal quantities against the items most likely to be used and the unit prices quoted by the Tenderer shall remain invariable whatever the quantities ordered .

A sample format of the Schedule has been suggested.

### **Provisional Sums**

A general provision for physical contingencies (quantity overruns) or for meeting other essential expenditures may be made by including a provisional sum in the Summary Bill of Quantities. Similarly, a contingency allowance for possible price increases should be provided as a provisional sum in the Summary Bill of Quantities. The inclusion of such provisional sums often facilitates budgetary approval by avoiding the need to request periodic supplementary approvals as the future need arise.

The estimated cost of specialized work to be carried out, or of special goods to be supplied, by nominated Sub contractor(s) should be indicated in the relevant part of the Bill of Quantities as a particular provisional sum with an appropriate brief description. A separate procurement procedure is normally carried out by the Procuring Entity to select such specialized Subcontractor(s).

A sample format has been suggested.

THIS GUIDANCE NOTES FOR PREPARING A BILL OF QUANTITIES ARE INTENDED ONLY AS INFORMATION FOR THE PROCURING ENTITY OR THE PERSON DRAFTING THE e-TD. THIS SHOULD NOT BE INCLUDED IN THE FINAL DOCUMENT

## Bill of Quantities

Item no.	Item Code (if any)	Description of Item	Measu rement Unit	Quantity	Unit Price	Total Price		
1	2	3	4	5	In figures	In words	In figures	In words
					6	7=6	8=5x6	9=8
<b><i>to be filled in by the PE</i></b>					<b><i>to be quoted and filled in by the Tenderer</i></b>	<b><i>Auto generated by e-GP System</i></b>		
<b>100 General Items</b>								
101 [example]	04-548-08 [example]	Excavate topsoil to maximum... ... [example]	m3 [example]	35 [example]	Tk.55.15 [example]	Taka Fifty Five and Paisa Fifteen Only [example]	Tk.1,930.25 [example]	Taka One Thousa nd Nine Hundre d Thirty and Paisa Twenty Five Only [example]
102								
103								
& so on								
<b>Sub-total of 100 for General Items</b>					<b><i>[Auto generated by e-GP System]</i></b>			
<b>200 Preliminary Items</b>								
201								
202								
& so on								
<b>Sub-total of 200 for Preliminary Items</b>					<b><i>[Auto generated by e-GP System]</i></b>			
<b>300 Main Items</b>								
301								
302								
& so on								
<b>Sub-total of 300 for Main Items</b>					<b><i>[Auto generated by e-GP System]</i></b>			
<b>400 Other Items</b>								
401								
402								
& so on								
<b>Sub-total of 400 for Other Items Main Items</b>					<b><i>[Auto generated by e-GP System]</i></b>			
<b>500 Misc. Items</b>								

501						
502						
& so on						
<b>Sub-total of 500 for Misc. Items</b>				<b>[Auto generated by e-GP System]</b>		
<b>GRAND TOTAL</b>				<b>[Auto generated by e-GP System]</b>		

## Schedule of Dayworks

Item no.	Item Code (if any)	Description of Item	Measure ment Unit	Nominal Quantity	Unit Price		Total Price					
					In figures	In words	In figures	In words				
1	2	3	4	5	6	7=6	8=5x6	9=8				
<i>to be filled in by the PE</i>					<i>to be quoted and filled in by the Tenderer</i>	<i>[Auto generated by e-GP System]</i>						
<b>A. DL 100 LABOUR</b>					<i>to be quoted and filled in by the Tenderer</i>	<i>[Auto generated by e-GP System]</i>						
DL 101	01-013-02	Labourer	Hour	1575								
DL 102		Mason	Hour	520								
DL 103		Carpenter	Hour	300								
<i>&amp; so on</i>												
<i>Data shown above are examples only</i>												
<b>Sub-total of 100 for DL 100 LABOUR:</b>					<i>[Auto generated by e-GP System]</i>							
<b>B. DM 200 MATERIALS</b>												
DM 201		Stone Boulders	m3									
DM 202		Cement	kg									
DM 203		GI Pipe	m									
<i>&amp; so on</i>												
<i>Data shown above are examples only</i>												
<b>Sub-total of 200 for DM 200 MATERIALS:</b>					<i>[Auto generated by e-GP System]</i>							
<b>C. DE 300 CONTRACTOR'S EQUIPMENTS</b>												
DCE 301		Excavator	Hour									
DCE 302		Tractor	Hour									
DCE 303		Pay loader	Hour									
<i>&amp; so on</i>												
<i>Data shown above are examples only</i>												
<b>Sub-total of 300 for DCE 300 CONTRACTOR'S EQUIPMENT :</b>					<i>[Auto generated by e-GP System]</i>							
<b>GRAND TOTAL OF DAYWORKS (A to C) [ Section 6 ; GCC Sub Clause 78 ]</b>												
<i>[Auto generated by e-GP System]</i>												

**Note:**

1. Nominal quantities in the schedule shall remain invariable and shall also require prior approval of the authority sanctioning the official estimate.
2. Follow the Guidance Notes under Section 6 in filling this Schedule.

## Summary of Provisional Sums

Item No	Description of Specified Provisional Sums	Amount
	Provisional Sums for Supply and Installation of Equipment in Pumping Station by [insert the name of the Nominated Subcontractor(s)] [example]	Tk. 1,250,000.00 <i>[Subcontracted amount + percentage as in PCC Clause 77.2]</i> [example]
	Provisional Sums for physical contingencies or meeting other expenditures [example]	Tk. 150,000.00 <i>[Amount authorized in official estimate but must be ≤ 1% of Contract Price]</i> [example]
<b>TOTAL FOR PROVISIONAL SUMS [Auto generated by e-GP System]</b>		

**Note:**

1. Appointment of Nominated Subcontractor(s) shall follow due procedures and shall require prior approval of the Competent Authority.
2. Provisional Sums for meeting expenditures other than those for Nominated Subcontractor(s) may not exceed one (1) percent of the estimated Contract price and its inclusion in the BOQ shall also require prior approval of the authority sanctioning the official estimate.
3. Follow the Guidance Notes under **Section 6** in filling this Schedule.

## Grand Summary

<b>General Summary</b>	<b>Amount (in figures)</b>
<b>1. 100 General Items</b>	[Auto generated by e-GP System]
<b>2. 200 Preliminary Items</b>	[Auto generated by e-GP System]
<b>3. 300 Main Items</b>	[Auto generated by e-GP System]
<b>4. 400 Other Items</b>	[Auto generated by e-GP System]
<b>5. 500 Misc. Items</b>	[Auto generated by e-GP System]
<b>6. Dayworks</b>	[Auto generated by e-GP System]
<b>Subtotal of (1-6):</b>	[Auto generated by e-GP System]
<b>7. Provisional Sums [GCC Sub Clause 77]</b>	
(i) Provisional Sums for Nominated Subcontractor(s)	[Auto generated by e-GP System]
(ii) Provisional Sums for meeting other expenditures	[Auto generated by e-GP System]
<b>Subtotal of (7) :</b>	[Auto generated by e-GP System]
	In figures
<b>TOTAL CONTRACT PRICE FOR THE WORKS (1-7)</b>	[Auto generated by e-GP System]
	In words
	[Auto generated by e-GP System]

Note: Row "Subtotal of (1-6)" and "Subtotal of (7)" will not be displayed in the e-GP System.

## **Section 7. General Specifications (GS)**

**THESE NOTES FOR PREPARING SPECIFICATIONS ARE INTENDED ONLY AS INFORMATION FOR THE PROCURING ENTITY OR THE PERSON DRAFTING THE e-TD AND SHOULD NOT BE INCLUDED IN THE FINAL e-TD. PE WILL ADD GENERAL SPECIFICATION IN THIS SECTION**

### **Notes on Specifications**

A set of precise and clear specifications is a prerequisite for Tenderers to respond realistically and competitively to the requirements of the PE without introducing deviations or conditionalities in their Tenders. In the context of national competitive Tendering, the specifications must be drafted to permit the widest possible competition and, at the same time, present a clear statement of the required standards of workmanship, materials, and performance of the works to be procured. Only if this is done will the objectives of economy, efficiency, and fairness in procurement be realized, responsiveness of Tenders be ensured, and the subsequent task of Tender evaluation facilitated. The specifications should require that all goods and materials to be incorporated in the Works be new, unused, of the most recent or current models, and incorporate all recent improvements in design and materials, unless provided otherwise in the Contract.

Samples of specifications from previous similar projects are useful in this respect. Most specifications are normally written specially by the PE or Project Manager to suit the Contract Works in hand. There is no standard set of Specifications for universal application in all sectors, but there are established principles and practices, which are reflected in these documents.

There are considerable advantages in standardizing General Specifications for repetitive Works in recognized public sectors, such as highways, ports, railways, urban housing, flood control, drainage and irrigation, and water supply, where similar conditions prevail. The General Specifications should cover all classes of workmanship, materials, and equipment commonly used in construction, although not necessarily to be used in a particular Works Contract. Deletions or addenda should then adapt the General Specifications to the particular Works. Such General Specifications are those issued by the specialised ministries/professional bodies in Bangladesh and/or those of the International Standards Organisation (ISO).

Care must be taken in drafting specifications to ensure that they are not restrictive. In the specification of standards for goods, materials, and workmanship, recognized national standards should be used as much as possible. Where other particular standards are used the specifications should state that goods, materials, and workmanship that meet other authoritative standards, and which ensure substantially equal or higher quality than the standards mentioned, will also be acceptable.

Provision as such be kept that wherever reference is made in the Contract to specific standards and codes to be met by the goods and materials to be furnished, and work performed or tested, the provisions of the latest current edition or revision of the relevant standards and codes in effect shall apply, unless otherwise expressly stated in the Contract.

## **Section 8.      Particular Specifications**

**THESE NOTES FOR PREPARING SPECIFICATIONS ARE INTENDED ONLY AS INFORMATION FOR THE PROCURING ENTITY OR THE PERSON DRAFTING THE e-TD AND SHOULD NOT BE INCLUDED IN THE FINAL e-TD. PE WILL ADD PARTICULAR SPECIFICATIONS IN THIS SECTION**

### **Notes on Particular Specifications**

If an item of the Works is not covered in the General Specifications or if any specification clause requires that further details as to precise requirements for the particular Works are to be given or needs to be modified or clarified then these should be reflected in the Particular Specifications. Where the Particular Specification clause replaces or clarifies an existing clause of the General Specification then the same clause numbering system need to be followed.

## **Section 9. Drawings**

### **Notes on Drawings**

*Insert here a list of Drawings. The actual Drawings, including site plans, should be attached to this section or annexed in a separate folder. The Drawings shall be dated, numbered and show the revision number.*

## **Invitation for Tenders (IFT)**

[This is the e-GP website format that provides relevant and essential information to help Tenderers to decide whether or not to participate in the particular Tender. It is included in this e-TD for information only. Lot details (single or multiple) will come from published Package of the Annual Procurement Plan (APP)]

<b>GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH</b>						
1	Ministry		<Display >			
2	Division		<Display >			
2	Organization		<Display >			
3	Procuring Entity Name		<Display >			
4	Procuring Entity Code		<Display if available >			
5	Procuring Entity District		<Display >			
6	Invitation for		<Display>			
7	Invitation Reference No.		< Type in IFT Reference No. >			
<b>KEY &amp; FUNDING INFORMATION</b>						
8	Procurement Method		< Display >			
9	Budget Type		< Display >			
10	Source of Funds		< Display >			
11	Development Partners (if applicable)		< Display >			
<b>PARTICULAR INFORMATION</b>						
11	Project Code (if applicable)		<Display>			
12	Project Name (if applicable)		<Display>			
13	Tender Package No. and Description		<Display>			
14	Category		<Display>			
15	Scheduled Tender Publication Date and Time		<Select Date & Time>			
16	Tender Document last selling / download Date and Time		<Select Date & Time>			
17	Pre-Tender Meeting Start Date and Time		<Select Date & Time>			
18	Pre-Tender Meeting End Date and Time		<Select Date & Time>			
19	Tender Closing Date and Time		<Select Date & Time>			
20	Tender Opening Date and Time		<Select Date & Time>			
<b>INFORMATION FOR TENDERER</b>						
21	Eligibility of Tenderer		< Enter detail >			
22	Brief Description of Works		< Enter detail >			
23	Evaluation Type		<Select>			
24	Document Available		<Select>			
25	Tender Document Price (TK)		< type in price >			
26	Mode of Payment		Payment through Banks			
27	Lot No	Identification of Lot	Location	Tender Security Amount (Tk)	Start Date	Completion Date
	<Display>	<Display>	<Display>	<type in>	<Select>	<Select>
28	Name of Official Inviting Tender		<Display>			
29	Designation of Official Inviting Tender		<Display>			
30	Address of Official Inviting Tender		<Display>			
31	Contact details of Official Inviting Tender		<Display>			
PE reserves the right to reject all tenders or annul/cancel the Tender proceedings						